

2017-2018

**SENATE
AGRICULTURE/
ENVIRONMENT/
NATURAL RESOURCES**

MINUTES

Senate Appropriations on Agriculture, Natural, and Economic Resources Committee

<u>Co-Chairmen</u>	<u>Assistant</u>	<u>Telephone</u>	<u>Room Number</u>
Sen. Bill Cook	Jordan Hennessey	(919) 715-8293	1026 LB
Sen. Norman Sanderson	Kathy Voss	(919) 733-5706	1127 LB
Sen. Andy Wells	Linda Wentte	(919) 733-5856	1028 LB
<u>Members</u>			
Sen. John Alexander	Perry Wester	(919) 733-5850	625 LOB
Sen. Danny Britt, Jr.	Cindy Davis	(919) 733-5651	2117 LB
Sen. Andrew C. Brock	Judy Edwards	(919) 715-0690	310 LOB
Sen. Angela Bryant	Jacqueta Rascoe	(919) 733-5878	516 LOB
Sen. Jay Chaudhuri	Ian Shannon	(919) 715-6400	1121 LB
Sen. Cathy Dunn	Judy Chriscoe	(919) 733-5665	2113 LB
Sen. Jeff Jackson	Dylan Arant	(919) 715-8331	1104 LB
Sen. Brent Jackson	Alexander Fagg	(919) 733-5705	2022 LB
Sen. Tom McInnis	Libby Spain	(919) 733-5953	620 LOB
Sen. Wesley Meredith	Debbie Lown	(919) 733-5776	314 LOB
Sen. Paul Newton	Carlyle Weaver	(919) 733-7223	2111 LB
Sen. Ronald J. Rabin	Chandra Reed	(919) 733-5748	411 LOB
Sen. Erica Smith-Ingram	Kelby Hicks	(919) 715-3040	1118 LB
Sen. Joyce Waddell	Jyrita Moore	(919) 733-5650	1113 LB
Sen. Trudy Wade	Robert Mays	(919) 733-5856	525 LOB
Sen. Mike Woodard	Carol Resar	(919) 733-4809	518 LOB
<u>Staff</u>			
Jeff Hudson	Legislative Analysis	(919) 733-2578	545 LOB
Jennifer McGinnis	Legislative Analysis	(919) 733-2578	545 LOB
Chris Saunders	Legislative Analysis	(919) 733-2578	511 LOB
Layla Cummings	Legislative Analysis	(919) 733-2578	545 LOB
Mariah Matheson	Legislative Analysis	(919) 733-2578	545 LOB



NORTH CAROLINA GENERAL ASSEMBLY

**Senate Agriculture / Environment / Natural Resources Committee
2017 – 2018 SESSION**



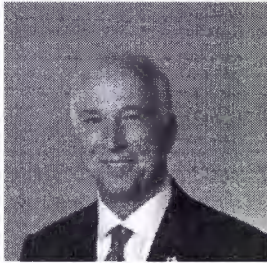
Sen. Bill Cook
Chair



Sen. Norman W. Sanderson
Chair



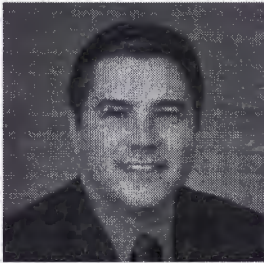
Sen. Andy Wells
Chair



Sen. John M. Alexander, Jr.



Sen. Danny Earl Britt, Jr.



Sen. Andrew C. Brock



Sen. Angela R. Bryant



Sen. Jay J. Chaudhuri



Sen. Cathy Dunn



Sen. Jeff Jackson



Sen. Brent Jackson



Sen. Tom McInnis



Sen. Wesley Meredith



Sen. Paul Newton



Sen. Ronald J. Rabin



Sen. Erica Smith-Ingram



Sen. Joyce Waddell



Sen. Trudy Wade



Sen. Mike Woodard



North Carolina General Assembly
Pending Senate Committee on
Agriculture/Environment/Natural Resources

2017-2018 Biennium
Leg. Day: H-104/S-103

Date: 10/04/2017
Time: 1:04:24 PM

Bill	Introducer	Short Title		Date	Latest Action
<u>H 218</u>	Turner	Prohibit Hunting From ROW/Buncombe County.	*S	05-23-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate
<u>S 163</u>	Wade	Solid Waste Amendments.	S	03-02-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 371</u> =	Brock	Building Code Regulatory Reform.	S	04-10-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Commerce and Insurance. If fav, re-ref to Rules and Operations of the Senate
<u>S 460</u> =	Jackson	Agriculture and Forestry Nuisance Remedies.	S	04-04-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate
<u>S 485</u>	Brock	Livestock and Wildlife Protection Act.	S	04-11-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Finance. If fav, re-ref to Rules and Operations of the Senate
<u>S 539</u>	Cook	Environmental Regulatory Reform Act of 2017.	S	04-13-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 624</u> =	Alexander	Outdoor Heritage Enhanced.	S	04-19-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 657</u> =	Harrington	Study Hexavalent Chromium in Groundwater.	S	04-13-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate

'\$' indicates the bill is an appropriations bill.

A bold line indicates that the bill is an appropriations bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 2, 2017, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 131	Regulatory Reform Act of 2016-2017.	Senator Wells Senator Cook Senator Sanderson
SB 124	LEO Managed CBD Oil Drop Box.	Senator D. Davis Senator Hise

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, March 02, 2017

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

FAVORABLE

SB 124

LEO Managed CBD Oil Drop Box.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 1 of multiple

Senator Don Davis will handle SB 124



* C M R 4 3 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, March 02, 2017

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

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

SB 131

Regulatory Reform Act of 2016.

Draft Number:	S131-PCS15050-TA-1
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 2 of 2

Senator Andy Wells will handle SB 131



* C M R 4 6 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 2, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on March 2, 2017 in Room 544 of the Legislative Office Building. There were 15 members present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms Charles Marsalis, Becky Myrick, Terry Edmondson, and Larry Hancock. The chair also recognized pages Rhushaun Holley from Garner, NC sponsored by Senator Barefoot, and Nelson Lomick from Gastonia, NC sponsored by Senator Harrington. The chair welcomed new members to the committee, Senator Cathy Dunn, Senator Joyce Waddell, and Senator Jeff Jackson.

Senator Sanderson addressed any guests intending to speak and asked them to sign up with the Sergeant at Arms. Each speaker will be limited to 2 minutes.

SB 124 LEO Managed CBD Oil Drop Box. (Senators D. Davis, Hise)

Senator Don Davis presented the bill which will require residual oil from hemp extract to be disposed at established, specific, and secure collection boxes managed by law enforcement. Senator Davis fielded questions from Senator Brent Jackson. Senator Waddell motioned for a favorable report. The motion passed.

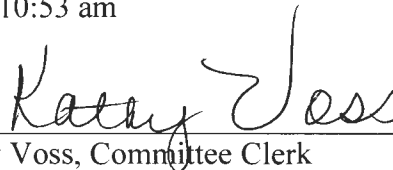
SB 131 Regulatory Reform Act of 2016-2017. (Senators Wells, Cook, Sanderson)

Senator Wells presented the bill which will provide further regulatory relief to the citizens of North Carolina. Senator Wells then proposed an amendment. Senator McInnis moved to accept the amendment, which was explained by staff and Senator Wells. Senator Wells responded to questions from Senators B. Jackson, Smith-Ingram, and Woodard. Mr. Matthew Starr, Upper Neuse River Keeper, expressed concern over potential damage to the shoreline and was opposed to the bill as amended. There being no further questions, Senator Jackson moved for an unfavorable report as to the bill, but favorable as amended and rolled into the PCS. The motion passed.

There being no further business, the meeting adjourned at 10:53 am

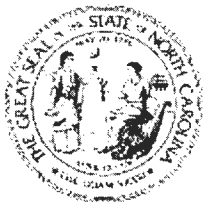


Senator Norman W. Sanderson, Chair
Presiding



Kathy Voss, Committee Clerk





SENATE BILL 131: Regulatory Reform Act of 2016.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 2, 2017
Introduced by:	Sens. Wells, Cook, Sanderson	Prepared by:	Jeff Hudson, Jennifer McGinnis, Jennifer Mundt, Chris Saunders, Layla Cummings Committee Staff
Analysis of:	First Edition		

OVERVIEW: *Senate Bill 131 would amend several State laws related to State and local government regulation and agricultural, energy, environmental, and natural resources regulation.*

CURRENT LAW AND BILL ANALYSIS:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

COPIES OF CERTAIN PUBLIC RECORDS

Section 1.1. would, effective July 1, 2017, 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.

CLARIFY PRIVATE DRINKING WATER WELL PERMITTING REQUIREMENTS

Section 1.2. would clarify that a local health department has exclusive authority to permit and inspect private drinking water well systems, and that no building permit is required for a certified well contractor to connect or disconnect a well system to the plumbing of the structure served by the well. A well system would be defined to include the well, the pressure tank, and all plumbing and electrical equipment in the well and between the well and the pressure tank.

PART II. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

ELIMINATE OUTDATED PROVISION OF THE COASTAL AREA MANAGEMENT ACT

Section 2.1. 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.

aren Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 131

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EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

Section 2.2. would exempt 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, from the definition of built-upon area for purposes of implementing stormwater programs. Section 2.2 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 2.3. 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 2.4. 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 2.4 would also direct the Department of Environmental Quality (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 2.5. 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 new rules were approved at the May 2016 meeting of the CRC and are currently in the rulemaking process to become permanent rules. This section would allow the CRC to adopt or modify those rules through emergency rulemaking.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

Section 2.6. 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 2.7. 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

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groins. Long-term erosion rates are evaluated by the Division about every five years and are used to determine setbacks for oceanfront development.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

Section 2.8. would, effective October 1, 2017, 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 2.9.(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.

Section 2.9.(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 2.9.(c) would direct DNCR and WRC to study and make recommendations to the Environmental Review Commission (ERC) by December 31, 2017, 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 2.10. 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.

REPEAL PASTURE POINTS PROVISION

Section 2.11. 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.

PART III. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION

Sections 3.1 through 3.23 would eliminate, consolidate, redirect and make other changes to various environmental and natural resources reports.

Sections 3.1. through 3.10. would eliminate:

- The report on the cost of implementing the Mining Act of 1971 by the Department of Environmental Quality (DEQ).
- The report on the implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA). (Two separate reports eliminated)
- The report on systemwide municipal and domestic wastewater collection system permit program by the Environmental Management Commission (EMC).
- The report on reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT). (Two separate reports eliminated)
- The report on the number of new motor vehicles purchased and fuel savings by DOA.
- The biennial report on the state of the environment by DEQ.
- The annual report on fish kill activity by DEQ.
- The report on progress towards developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC.
- The report on the implementation of the State beach and inlet management plan by DEQ.
- The report on informal review process for agency review of engineering work.

Sections 3.11. through 3.18. would consolidate and amend reports as follows:

- The Coastal Resources Commission (CRC), EMC, and Marine Fisheries Commission annual report on progress in developing and implementing the Coastal Habitat Protection Plans would be amended to provide that the reports are only required by September 1 of the each year in which any significant revisions to the Plans are made.
- DEQ's annual 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 and the Express Permit Certification Reviews.
- EMC's quarterly 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 combined report would be due annually and the first report must be submitted by January 1, 2018.
- DEQ's annual reports on: (i) recycling discarded computer equipment and televisions, (ii) the Brownfields Property Reuse Act, (iii) the Inactive Hazardous Waste Response Act of 1987, (iv) the Dry-Cleaning Solvent Cleanup Act of 1997, and (v) the implementation and cost of the

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hazardous waste management program would be consolidated with the Department's annual solid waste management report. The combined report would be due annually and the first report must be submitted by January 15, 2018.

- DEQ's annual report on the Sedimentation Pollution Control Act of 1973 would be consolidated with the stormwater control program report. The combined report would be due annually and the first report must be submitted by October 1, 2017.
- DEQ's annual reports on the development of the State water supply plan and the development of basinwide hydrological models would be consolidated with the annual report on basinwide water quality management submitted by the EMC and DEQ. The combined report would be due annually and the first report must be submitted by November 1, 2017.
- DEQ's annual 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 combined report would be due annually and the first report must be submitted to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division, by November 1, 2017.
- The Soil and Water Conservation Commission's annual 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 annual 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 combined report would be due annually and the first report must be submitted by January 31, 2018.

Sections 3.19. through 3.23. would make the following changes:

- Reduce the frequency of reporting on terminal groin projects by the CRC from annually to every five years.
- Reduce the reporting frequency on the State Parks System Plan by the Department of Natural and Cultural Resources from annually to every five years and directs the Department to submit the report to ANER Oversight Committee in addition to other entities.
- Redirect the interagency report on the use of Superfund cost share funds to the ANER Oversight Committee.
- Redirect the annual report on expenditures from the Bernard Allen Emergency Drinking Water Fund to the ANER Oversight Committee.
- Redirect the annual report on allocations from the Parks and Recreation Trust Fund to the ANER Oversight Committee.

ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE

Section 3.24. would establish the North Carolina Sentinel Landscape Committee (Committee). The Committee is directed to:

1. Identify and designate certain lands to be contained in the sentinel landscape of this State that are of particular import to the nation's defense and in the vicinity of major military installations.
2. Evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions in the State.

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3. Develop recommendations to encourage landowners located within the sentinel landscapes (as designated above) to voluntarily participate in and begin or continue land uses that are compatible with the United States Department of Defense operations in this State.
4. Provide technical support and assistance to landowners who voluntarily participate in the sentinel landscape program.

In addition to the chair appointing members who represent other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands, the Committee is made up of the following four members: (i) the Commissioner of Agriculture, or the Commissioner's designee, who will serve as chair; (ii) the Secretary of DMVA, or the Secretary's designee; (iii) the Secretary of Natural and Cultural Resources, or the Secretary's designee; (iv), the Executive Director of the Wildlife Resources Commission, or the Executive Director's designee, and (v) the Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

The Committee must report on its activities to implement this section along with any findings, recommendations, and legislative proposals to both the Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2017, and annually thereafter until such time as the Committee completes its work.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 131

Short Title: Regulatory Reform Act of 2016. (Public)

Sponsors: Senators Wells, Cook, Sanderson (Primary Sponsors); Clark and Rabin.

Referred to: Rules and Operations of the Senate

February 27, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND CERTAIN ENVIRONMENTAL, NATURAL RESOURCES, AND
OTHER LAWS.

The General Assembly of North Carolina enacts:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

COPIES OF CERTAIN PUBLIC RECORDS

SECTION 1.1.(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.

(a1) 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. 132-6 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. 132-6 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.

...

(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 1.1.(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 2018 Regular Session of the 2017 General Assembly on or before February 1, 2018, regarding the development and use of computer databases by State and local agencies and the need for public access to those public records.

SECTION 1.1.(c) This section becomes effective July 1, 2017.

CLARIFY PRIVATE DRINKING WATER WELL PERMITTING REQUIREMENTS

SECTION 1.2.(a) G.S. 87-97(b1) reads as rewritten:

"§ 87-97. Permitting, inspection, and testing of private drinking water wells.

...

(b1) Permit to Include Authorization for Piping and Electrical. – When a permit is issued under this section, the local health department shall be responsible for notifying the appropriate building inspector of the issuance of the well permit. A permit issued under this section shall also be deemed to include authorization for all of the following:

- (1) The installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch.
- (2) The installation, construction, maintenance, or repair of water pipes by a person certified as a well contractor under Article 7A of this Chapter when running water pipes from the well to the water tank.
- (3) The installation of both water pipes and electrical wiring in a single ditch by a person certified as a well contractor under Article 7A of this Chapter when running electrical wires from the well pump to the pressure switch and water pipes from the well to the water tank. The ditch shall be as deep as the minimum cover requirements for either electrical wiring or water pipes, whichever is greater.
- (4) The local health department is the exclusive authority for the permitting and inspection of the well system. No permit under G.S. 143-138 shall be required for the connection or disconnection of a well system to the plumbing of the structure served by the well by a person certified as a well contractor under Article 7A of this Chapter. For purposes of this subdivision, a well system includes the well, the pressure tank, and all plumbing and electrical equipment in the well and between the well and the pressure tank.

This subsection shall not be interpreted to prohibit any person licensed by an independent occupational licensing board from performing any authorized services within the scope of practice of the person's license."

SECTION 1.2.(b) G.S. 143-138 is amended by adding a new subsection to read:

"§ 143-138. North Carolina State Building Code.

...

(b17) Exclusion for Private Drinking Water Well Installation, Construction, Maintenance, and Repair. – No permit shall be required under the Code or any local variant approved under subsection (e) of this section for the electrical and plumbing activities associated with the installation, construction, maintenance, or repair of a private drinking water well when all of the following apply:

- (1) The work is performed by a contractor certified under Article 7A of Chapter 87 of the General Statutes under the terms of a permit issued by the local health department pursuant to G.S. 87-97.
- (2) The scope of work includes only the well, associated pumps and storage tanks, the electrical wiring from the well pump to the pressure switch, and the

plumbing connection from the storage tank to the plumbing of the structure served by the well.

(3) The appropriate building inspector is notified as set forth in G.S. 87-97(b1)."

PART II. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

ELIMINATE OUTDATED PROVISION OF THE COASTAL AREA MANAGEMENT ACT

SECTION 2.1. G.S. 113A-109 is repealed.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

SECTION 2.2. 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 2.3.(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

1 permit applicant (i) complies with the Minimum Design Criteria for stormwater management
2 developed by the Department and (ii) submits a permit application prepared by a qualified
3 professional. In developing the rules, the Commission shall consult with a technical working
4 group that consists of industry experts, engineers, environmental consultants, relevant faculty from
5 The University of North Carolina, and other interested stakeholders. The rules shall, at a
6 minimum, provide for all of the following:

- 7 (1) A process for permit application, review, and determination.
- 8 (2) The types of professionals that are qualified to prepare a permit application
9 submitted pursuant to this section and the types of qualifications such
10 professionals must have. The Commission shall include the following
11 professionals who meet the North Carolina licensing requirements applicable to
12 the type of stormwater management system proposed:
 - 13 a. Landscape architects licensed pursuant to Chapter 89A of the General
14 Statutes.
 - 15 b. Engineers licensed pursuant to Chapter 89C of the General Statutes.
 - 16 c. Geologists licensed pursuant to Chapter 89E of the General Statutes.
 - 17 d. Soil scientists licensed pursuant to Chapter 89F of the General Statutes.
 - 18 e. Any other licensed profession that the Commission deems appropriate.
- 19 (3) A process for ensuring compliance with the Minimum Design Criteria.
- 20 (4) That permits issued pursuant to the fast-track permitting process comply with
21 State water quality standards adopted pursuant to G.S. 143-214.1, 143-214.7,
22 and 143-215.3(a)(1).
- 23 (5) A process for establishing the liability of a qualified professional who prepares
24 a permit application for a stormwater management system that fails to comply
25 with the Minimum Design Criteria."

26 **SECTION 2.3.(b)** The Environmental Management Commission shall amend its rules
27 to implement subsection (a) of this section no later than July 1, 2017.

29 AMEND STREAM MITIGATION REQUIREMENTS

30 **SECTION 2.4.(a)** The Environmental Management Commission shall amend its rules
31 so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of
32 more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of
33 those losses; and a lower mitigation threshold may be applied in the case of a legally binding
34 federal policy. The Commission shall adopt temporary rules as soon as practicable to implement
35 this section.

36 **SECTION 2.4.(b)** The Department of Environmental Quality shall submit written
37 comments to the Washington, D.C., Headquarters and the Wilmington District Office of the
38 United States Army Corps of Engineers on behalf of the State in support of the Wilmington
39 District adopting Regional Conditions that will increase the threshold for the requirement of
40 mitigation for loss of stream bed of perennial or ephemeral/intermittent streams from 150 linear
41 feet to 300 linear feet. The written comments shall include a history of why the current threshold
42 of 150 linear feet exists in North Carolina, shall outline the thresholds that exist in other
43 jurisdictions, and shall note that the State has established a 300-linear-foot mitigation threshold.

45 COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION 46 CONTROL STRUCTURES

47 **SECTION 2.5.(a)** Sections 14.6(p) and 14.6(q) of S.L. 2015-241 are repealed.

48 **SECTION 2.5.(b)** Notwithstanding G.S. 150B-21.1A(a), the Coastal Resources
49 Commission may adopt an emergency rule for the use of temporary erosion control structures
50 consistent with the amendments to the temporary erosion control structure rules adopted by the
51 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 temporary and 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 2.6.(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 2.6.(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 2.6.(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 2.6.(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 2.6.(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 2.7. 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 March 1, 2018.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

SECTION 2.8.(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 2.8.(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 2.8.(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 2.8.(d) This section becomes effective October 1, 2017.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

SECTION 2.9.(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."

SECTION 2.9.(b) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodilians.

SECTION 2.9.(c) The North Carolina Department of Natural and Cultural Resources and the North Carolina Wildlife Resources Commission shall jointly study and develop recommendations for potential procedural and policy changes to improve the regulation of certain reptiles pursuant to Article 55 of Chapter 14 of the General Statutes. The Department and the Commission shall consider public health and safety risks, permitting requirements, exemptions, notification of escape, investigation of suspected violations, seizure and examination of reptiles, disposition of seized reptiles, and any other issues determined relevant to the regulation of certain reptiles. The Department and the Commission shall submit a report, including any legislative recommendations, to the Environmental Review Commission no later than December 31, 2017.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

SECTION 2.10.(a) 15A NCAC 18C .0409(b)(1) (Daily Flow Requirements). – Until the effective date of the revised permanent rule that the Commission for Public Health is required to adopt pursuant to subsection (c) of this section, the Commission, the Department of Environmental Quality, 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 2.10.(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 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 2.10.(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 2.10.(d) Sunset. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective.

REPEAL PASTURE POINTS PROVISION

SECTION 2.11. Section 4(c) of S.L. 2001-355 is repealed.

PART III. 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 3.1. 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 3.2.(a) G.S. 143-135.39(f) and (g) are repealed.

SECTION 3.2.(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 3.3. 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 3.4. 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 3.5. 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

1 Edition). As used in this sub-sub-subdivision, "passenger motor
2 vehicle" has the same meaning as "private passenger vehicle" as
3 defined in G.S. 20-4.01. Notwithstanding the requirements of
4 sub-sub-subdivision 2a. of this sub-subdivision, every request
5 for proposals for new passenger motor vehicles to be purchased
6 by the Department shall state a preference for vehicles that have
7 a fuel economy for the new vehicle's model year that is in the top
8 fifteen percent (15%) of its class of comparable automobiles.
9 The award for every new passenger motor vehicle that is
10 purchased by the Department shall be based on the Department's
11 evaluation of the best value for the State, taking into account
12 fuel economy ratings and life cycle cost that reasonably consider
13 both projected fuel costs and acquisition costs. This
14 sub-sub-subdivision does not apply to vehicles used in law
15 enforcement, emergency medical response, and firefighting. ~~The~~
16 ~~Department shall report the number of new passenger motor~~
17 ~~vehicles that are purchased as required by this~~
18 ~~sub-sub-subdivision, the savings or costs for the purchase of~~
19 ~~vehicles to comply with this sub-sub-subdivision, and the~~
20 ~~quantity and cost of fuel saved for the previous fiscal year on or~~
21 ~~before October 1 of each year to the Joint Legislative~~
22 ~~Commission on Governmental Operations and the~~
23 ~~Environmental Review Commission."~~
24

25 **ELIMINATE BIENNIAL STATE OF THE ENVIRONMENT REPORT BY THE**
26 **DEPARTMENT OF ENVIRONMENTAL QUALITY**

27 **SECTION 3.6.** G.S. 143B-279.5 is repealed.
28

29 **ELIMINATE ANNUAL REPORT ON FISH KILL ACTIVITY BY THE DEPARTMENT**
30 **OF ENVIRONMENTAL QUALITY**

31 **SECTION 3.7.** G.S. 143B-279.7(c) is repealed.
32

33 **ELIMINATE THE ENVIRONMENTAL MANAGEMENT COMMISSION QUARTERLY**
34 **REPORT ON DEVELOPING ENGINEERING STANDARDS GOVERNING MUNICIPAL**
35 **AND DOMESTIC SYSTEMS TO ALLOW REGIONAL INTERCONNECTION**

36 **SECTION 3.8.** Section 11.1 of S.L. 1999-329 reads as rewritten:

37 "Section 11.1. The Environmental Management Commission shall develop engineering
38 standards governing municipal and domestic wastewater collection systems that will allow
39 interconnection of these systems on a regional basis. ~~The Commission shall report on its progress~~
40 ~~in developing the engineering standards required by this section as a part of each quarterly report~~
41 ~~the Commission makes to the Environmental Review Commission pursuant to G.S. 143B-282(b)."~~
42

43 **ELIMINATE BIENNIAL REPORT ON IMPLEMENTATION OF THE NORTH**
44 **CAROLINA BEACH AND INLET MANAGEMENT PLAN BY THE DEPARTMENT OF**
45 **ENVIRONMENTAL QUALITY**

46 **SECTION 3.9.** Section 13.9(d) of S.L. 2000-67 reads as rewritten:

47 "Section 13.9.(d) Each plan shall be as complete as resources and available information allow.
48 ~~The Department of Environment and Natural Resources shall revise the plan every two years and~~
49 ~~shall submit the revised plan to the General Assembly no later than March 1 of each odd-~~
50 ~~numbered year. The Department may issue a supplement to the plan in even-numbered years if~~
51 ~~significant new information becomes available."~~

ELIMINATE ANNUAL REPORT ON INFORMAL REVIEW PROCESS FOR AGENCY REVIEW OF ENGINEERING WORK

SECTION 3.10. Sections 29(j) and 29(k) of S.L. 2014-120 are repealed.

CONSOLIDATE REPORTS ON THE COASTAL HABITAT PROTECTION PLAN

SECTION 3.11.(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 ~~1 September~~September 1 of each ~~year~~year in which any significant revisions to the Plans are made."

SECTION 3.11.(b) G.S. 143B-279.8(f) is repealed.

CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS ON COST AND IMPLEMENTATION OF ENVIRONMENTAL PERMITTING PROGRAMS

SECTION 3.12.(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 ~~1 November~~January 1 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 3.12.(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 1~~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 3.12.(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, 2018.

CONSOLIDATE AND REDUCE FREQUENCY OF REPORTS BY THE ENVIRONMENTAL MANAGEMENT COMMISSION

SECTION 3.13.(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

1 written and oral reports as may be requested by the Environmental Review Commission. ~~The~~
2 ~~Environmental Management Commission shall submit the written reports required by this~~
3 ~~subsection whether or not the General Assembly is in session at the time the report is due."~~

4 **SECTION 3.13.(b)** G.S. 143-215.1(h) reads as rewritten:

5 "(h) Each applicant for a new permit or the modification of an existing permit issued under
6 subsection (c) of this section shall include with the application: (i) the extent to which the new or
7 modified facility is constructed in whole or in part with funds provided or administered by the
8 State or a unit of local government, (ii) the impact of the facility on water quality, and (iii) whether
9 there are cost-effective alternative technologies that will achieve greater protection of water
10 quality. The Commission shall prepare ~~a quarterly~~ an annual summary and analysis of the
11 information provided by applicants pursuant to this subsection. The Commission shall submit the
12 summary and analysis required by this subsection to the Environmental Review Commission
13 (ERC) as a part of each ~~quarterly~~ annual report that the Commission is required to make to the
14 ERC under G.S. 143B-282(b)."

15 **SECTION 3.13.(c)** The first combined report required by subsections (a) and (b) of
16 this section shall be submitted to the Environmental Review Commission no later than January 1,
17 2018.

18 19 **CONSOLIDATE WASTE MANAGEMENT REPORTS BY THE DEPARTMENT OF** 20 **ENVIRONMENTAL QUALITY**

21 **SECTION 3.14.(a)** G.S. 130A-309.06(c) reads as rewritten:

22 "(c) The Department shall report to the Environmental Review Commission and the Fiscal
23 Research Division on or before ~~15 January~~ January 15 of each year on the status of solid waste
24 management efforts in the State. The report shall include:

- 25 (1) A comprehensive analysis, to be updated in each report, of solid waste
26 generation and disposal in the State projected for the 20-year period beginning
27 on ~~1 July~~ July 1, 1991.
- 28 (2) The total amounts of solid waste recycled and disposed of and the methods of
29 solid waste recycling and disposal used during the calendar year prior to the
30 year in which the report is published.
- 31 (3) An evaluation of the development and implementation of local solid waste
32 management programs and county and municipal recycling programs.
- 33 (4) An evaluation of the success of each county or group of counties in meeting the
34 municipal solid waste reduction goal established in G.S. 130A-309.04.
- 35 (5) Recommendations concerning existing and potential programs for solid waste
36 reduction and recycling that would be appropriate for units of local government
37 and State agencies to implement to meet the requirements of this Part.
- 38 (6) An evaluation of the recycling industry, the markets for recycled materials, the
39 recycling of polystyrene, and the success of State, local, and private industry
40 efforts to enhance the markets for these materials.
- 41 (7) Recommendations to the Governor and the Environmental Review Commission
42 to improve the management and recycling of solid waste in the State, including
43 any proposed legislation to implement the recommendations.
- 44 (8) A description of the condition of the Solid Waste Management Trust Fund and
45 the use of all funds allocated from the Solid Waste Management Trust Fund, as
46 required by G.S. 130A-309.12(c).
- 47 (9) A description of the review and revision of bid procedures and the purchase and
48 use of reusable, refillable, repairable, more durable, and less toxic supplies and
49 products by both the Department of Administration and the Department of
50 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 3.14.(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 3.14.(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 3.14.(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 3.14.(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.
- (2) A list of all facilities and abandoned sites certified by the Commission and the status of contamination associated with each facility or abandoned site.
- (3) An estimate of the cost of assessment and remediation required in connection with facilities or abandoned sites certified by the Commission and an estimate of assessment and remediation costs expected to be paid from the Fund.
- (4) A statement of receipts and disbursements for the Fund.
- (5) A statement of all claims against the Fund, including claims paid, claims denied, pending claims, anticipated claims, and any other obligations.
- (6) The adequacy of the Fund to carry out the purposes of this Part together with any recommendations as to measures that may be necessary to assure the continued solvency of the Fund.

(b) ~~The Secretary shall make the annual report required by this section on or before 1 October of each year."~~

SECTION 3.14.(f) G.S. 130A-294(i) reads as rewritten:

"(i) The Department shall report to Fiscal Research Division of the General Assembly, the Senate Appropriations Subcommittee on Natural and Economic Resources, the House Appropriations Subcommittee on Natural and Economic Resources, and the Environmental

~~Review Commission on or before January 1 of each year~~ 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 implementation and cost of the hazardous waste management program. The report shall include an evaluation of how well the State and private parties are managing and cleaning up hazardous waste. The report shall also include recommendations to the Governor, State agencies, and the General Assembly on ways to: improve waste management; reduce the amount of waste generated; maximize resource recovery, reuse, and conservation; and minimize the amount of hazardous waste which must be disposed of. The report shall include beginning and ending balances in the Hazardous Waste Management Account for the reporting period, total fees collected pursuant to G.S. 130A-294.1, anticipated revenue from all sources, total expenditures by activities and categories for the hazardous waste management program, any recommended adjustments in annual and tonnage fees which may be necessary to assure the continued availability of funds sufficient to pay the State's share of the cost of the hazardous waste management program, and any other information requested by the General Assembly. In recommending adjustments in annual and tonnage fees, the Department may propose fees for hazardous waste generators, and for hazardous waste treatment facilities that treat waste generated on site, which are designed to encourage reductions in the volume or quantity and toxicity of hazardous waste. The report shall also include a description of activities undertaken to implement the resident inspectors program established under G.S. 130A-295.02. In addition, the report shall include an annual update on the mercury switch removal program that shall include, at a minimum, all of the following:

- (1) A detailed description of the mercury recovery performance ratio achieved by the mercury switch removal program.
- (2) A detailed description of the mercury switch collection system developed and implemented by vehicle manufacturers in accordance with the NVMSRP.
- (3) In the event that a mercury recovery performance ratio of at least 0.90 of the national mercury recovery performance ratio as reported by the NVMSRP is not achieved, a description of additional or alternative actions that may be implemented to improve the mercury switch removal program.
- (4) The number of mercury switches collected and a description of how the mercury switches were managed.
- (5) A statement that details the costs required to implement the mercury switch removal program, including a summary of receipts and disbursements from the Mercury Switch Removal Account."

SECTION 3.14.(g) The first combined report required by subsections (a) through (f) of this section shall be submitted to the Environmental Review Commission and the Fiscal Research Division no later than January 15, 2018.

CONSOLIDATE SEDIMENTATION POLLUTION CONTROL ACT AND STORMWATER REPORTS

SECTION 3.15.(a) G.S. 113A-67 reads as rewritten:
"§ 113A-67. Annual Report.

The Department shall report to the Environmental Review Commission on the implementation of this Article on or before ~~1 October~~October 1 of each year. The Department shall include in the report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include a review of the effectiveness of local erosion and sedimentation control programs. The report shall be submitted to the Environmental Review Commission with the report required by G.S. 143-214.7(e) as a single report."

SECTION 3.15.(b) G.S. 143-214.7(e) reads as rewritten:

"(e) On or before October 1 of each year, the ~~Commission-Department~~ shall report to the Environmental Review Commission on the implementation of this section, including the status of any stormwater control programs administered by State agencies and units of local government. The status report shall include information on any integration of stormwater capture and reuse into stormwater control programs administered by State agencies and units of local government. The report shall be submitted to the Environmental Review Commission with the report required by G.S. 113A-67 as a single report."

SECTION 3.15.(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 October 1, 2017.

CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 3.16.(a) G.S. 143-355(n) is repealed.

SECTION 3.16.(b) G.S. 143-355(o)(9) is repealed.

SECTION 3.16.(c) G.S. 143-355 is amended by adding a new subsection to read:

"(p) Report. – The Department of Environmental Quality shall report to the Environmental Review Commission on the implementation of this section, including the development of the State water supply plan and the development of basinwide hydrologic models, no later than November 1 of each year. The Department shall submit the report required by this subsection with the report on basinwide water quality management plans required by G.S. 143-215.8B(d) as a single report."

SECTION 3.16.(d) G.S. 143-215.8B(d) reads as rewritten:

"(d) ~~The As a part of the report required pursuant to G.S. 143-355(p), the~~ Commission and the Department shall each report on or before ~~4-October~~November 1 of each year on an annual basis to the Environmental Review Commission on the progress in developing and implementing basinwide water quality management plans and on increasing public involvement and public education in connection with basinwide water quality management planning. The report to the Environmental Review Commission by the Department shall include a written statement as to all concentrations of heavy metals and other pollutants in the surface waters of the State that are identified in the course of preparing or revising the basinwide water quality management plans."

SECTION 3.16.(e) The first combined report required by subsections (c) and (d) of this section shall be submitted to the Environmental Review Commission no later than November 1, 2017.

CONSOLIDATE REPORTS BY THE DIVISION OF WATER INFRASTRUCTURE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE STATE WATER INFRASTRUCTURE AUTHORITY

SECTION 3.17.(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 3.17.(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 3.17.(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, 2017.

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 3.18.(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 3.18.(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 3.18.(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 3.18.(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, 2018.

DECREASE REPORTING FREQUENCY ON TERMINAL GROINS PILOT PROJECT BY THE COASTAL RESOURCES COMMISSION

SECTION 3.19. G.S. 113A-115.1(i) reads as rewritten:

"(i) No later than ~~September 1~~ of each year, January 1, 2019, 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 3.20. G.S. 143B-135.48(d) reads as rewritten:

"(d) No later than ~~October 1 of each year~~, October 1, 2018, 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 3.21. 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 sites under Part 3 of Article 9 of Chapter 130A of the General Statutes. These funds may be in addition to those appropriated for this purpose.

"Section 15.6.(b) The Department of ~~Environment and Natural Resources~~ Environmental Quality and the Office of State Budget and Management shall report to the ~~Environmental Review Commission and the Joint Legislative Commission on Governmental Operations~~ Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources the amount and the source of the funds used pursuant to subsection (a) of this section within 30 days of the expenditure of these funds."

REDIRECT REPORT ON EXPENDITURES FROM BERNARD ALLEN EMERGENCY DRINKING WATER FUND TO ANER OVERSIGHT COMMITTEE

SECTION 3.22. G.S. 87-98(e) reads as rewritten:

"(e) The Department, in consultation with the Commission for Public Health and local health departments, shall report no later than October 1 of each year to the ~~Environmental Review Commission, the House of Representatives and Senate Appropriations Subcommittees on Natural~~ Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division of the General Assembly on the implementation of this section. The report shall include the purpose and amount of all expenditures from the Fund during the prior

1 fiscal year, a discussion of the benefits and deficiencies realized as a result of the section, and may
2 also include recommendations for any legislative action."
3

4 **REDIRECT REPORT ON PARKS AND RECREATION TRUST FUND TO THE ANER**
5 **OVERSIGHT COMMITTEE**

6 **SECTION 3.23.** G.S. 143B-135.56(f) reads as rewritten:

7 "(f) Reports. – The North Carolina Parks and Recreation Authority shall report no later
8 than October 1 of each year to the Joint Legislative ~~Commission on Governmental Operations, the~~
9 ~~House and Senate Appropriations Subcommittees on Natural and Economic Resources, Oversight~~
10 ~~Committee on Agriculture and Natural and Economic Resources, the~~ Fiscal Research Division,
11 and the Environmental Review Commission on allocations from the Trust Fund from the prior
12 fiscal year. For funds allocated from the Trust Fund under subsection (c) of this section, this report
13 shall include the operating expenses determined under subdivisions (1) and (2) of subsection (e) of
14 this section."
15

16 **ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE**

17 **SECTION 3.24.(a)** Committee Established. – There is established the North Carolina
18 Sentinel Landscape Committee (Committee).

19 **SECTION 3.24.(b)** Findings and Purpose. – The General Assembly finds that sentinel
20 landscapes are places where preserving the working and rural character of the State's private lands
21 is important for both national defense and conservation priorities. It is the intent of the General
22 Assembly to direct the Committee to coordinate the overlapping priority areas in the vicinity of
23 and where testing and training occur on major military installations, as that term is defined in
24 G.S. 143-215.115. Further, the Committee shall assist landowners in improving their land to
25 benefit their operations and enhance wildlife habitats while furthering the State's vested economic
26 interest in preserving, maintaining, and sustaining land uses that are compatible with military
27 activities at major military installations and National Guard facilities. In its work, the Committee
28 shall develop and implement programs and strategies that (i) protect working lands in the vicinity
29 of and where testing and training occur on major military installations, (ii) address restrictions that
30 inhibit military testing and training, and (iii) forestall incompatible development in the vicinity of
31 and where testing and training occur on military installations.

32 **SECTION 3.24.(c)** Powers and Duties. – The Committee shall:

- 33 (1) Identify and designate certain lands to be contained in the sentinel landscape of
34 this State that are of particular import to the nation's defense and in the vicinity
35 of and where testing and training occur on major military installations. In this
36 work, the Committee may seek advice and recommendations from stakeholders
37 who have experience in this sort of identification and designation.
- 38 (2) In designating sentinel lands as directed by subdivision (1) of this subsection,
39 the Committee shall evaluate all working or natural lands that the Committee
40 identifies as contributing to the long-term sustainability of the military missions
41 conducted in this State. In its evaluation of which lands to designate as sentinel
42 lands, the Committee shall consult with and seek input from:
- 43 a. The United States Department of Defense.
 - 44 b. The North Carolina Commander's Council.
 - 45 c. The United States Department of Agriculture.
 - 46 d. The United States Department of the Interior.
 - 47 e. Elected officials from units of local government located in the vicinity
48 of and where testing and training occur on the proposed sentinel lands.
 - 49 f. Any other stakeholders that the Committee deems appropriate.
- 50 (3) Develop recommendations to encourage landowners located within the sentinel
51 landscape designated pursuant to subdivision (1) of this subsection to

1 voluntarily participate in and begin or continue land uses compatible with the
2 United States Department of Defense operations in this State.

- 3 (4) Provide technical support services and assistance to landowners who
4 voluntarily participate in the sentinel landscape program.

5 **SECTION 3.24.(d) Membership.** – The Committee shall consist of at least the five
6 following members:

- 7 (1) The Commissioner of Agriculture, or the Commissioner's designee.
8 (2) The Secretary of the Department of Military and Veterans Affairs, or the
9 Secretary's designee.
10 (3) The Secretary of Natural and Cultural Resources, or the Secretary's designee.
11 (4) The Executive Director of the Wildlife Resources Commission, or the
12 Executive Director's designee.
13 (5) The Dean of the College of Natural Resources at North Carolina State
14 University, or the Dean's designee.

15 The Committee chair shall be one of the five listed members above and the Committee
16 chair may appoint members representing other State agencies, local government officials, and
17 nongovernmental organizations that are experienced in land management activities within sentinel
18 lands.

19 **SECTION 3.24.(e) Transaction of Business.** – The Committee shall meet, at a
20 minimum, at least once during each calendar quarter and at other times at the call of the chair. A
21 majority of members of the Committee shall constitute a quorum. The first Committee meeting
22 shall take place within 30 days of the effective date of this act.

23 **SECTION 3.24.(f) Reports.** – The Committee shall report on its activities conducted
24 to implement this section, including any findings, recommendations, and legislative proposals, to
25 the North Carolina Military Affairs Commission and the Agriculture and Forestry Awareness
26 Study Commission beginning September 1, 2017, and annually thereafter, until such time as the
27 Committee completes its work.

28 **SECTION 3.24.(g) Administrative Assistance.** – All clerical and other services
29 required by the Committee shall be supplied by the membership and shall be provided with funds
30 available.

31 **PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

32 **SECTION 4.1.** If any section or provision of this act is declared unconstitutional or
33 invalid by the courts, it does not affect the validity of this act as a whole or any part other than the
34 part declared to be unconstitutional or invalid.

35 **SECTION 4.2.** Except as otherwise provided, this act is effective when it becomes
36 law.
37





**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 131**

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

S131-ATQ-1 [v.13]

Page 1 of 5

Amends Title [NO]
First Edition

Date 3-2-17, 2017

Senator Wells

1 moves to amend the bill on page 2, lines 28 through 34,
2 by rewriting the lines to read:

3
4 "(4) The local health department is the exclusive authority for the permitting and
5 inspection of the well system. No person certified as a well contractor under
6 Article 7 of this Chapter shall be required to have a permit under G.S. 143-138
7 for either (i) the connection or disconnection of well system to the plumbing
8 served by the well system, or (ii) the connection or disconnection of the
9 electrical wiring to the pump or pressure switch of a well system to the
10 electrical service that serves the well system. For purposes of this subdivision, a
11 well system includes the well, the pressure tank, the pressure switch, and all
12 plumbing and electrical equipment in the well and between the well, pressure
13 tank, and pressure switch.";

14
15 on page 2, line 49 through page 3, line 3,
16 by rewriting the lines to read:

17
18 "(2) The scope of work includes only the well system as defined in G.S. 89-
19 97(b1)(4) and the connection or disconnection of the well system to either the
20 plumbing served by the well system or the electrical service that serves the well
21 system.";

22
23 on page 3, line 47, through page 4, line 27,
24 by rewriting the lines to read:

25
26 **"PROHIBIT CERTAIN STORMWATER CONTROL MEASURES**

27 **SECTION 2.3.(a)** Until the effective date of the revised permanent rule that the
28 Environmental Management Commission is required to adopt pursuant to subsection (c) of this
29 section, the Commission and the Department of Environmental Quality shall implement 15A
30 NCAC 02H .0506 (Review of Applications) as provided in subsection (b) of this section.

31 **SECTION 2.3.(b)** Notwithstanding 15A NCAC 02H .0506(b)(5) and 15A NCAC
32 02H .0506(c)(5), the Director of the Division of Water Resources shall not require the use of



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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 131

AMENDMENT NO. _____
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Principal Clerk)

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on-site stormwater control measures to protect downstream water quality standards, except as required by State or federal law.

SECTION 2.3.(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 2.3.(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.";

on page 4, lines 29 through 43,
by rewriting the lines to read:

"AMEND STREAM MITIGATION REQUIREMENTS

SECTION 2.4.(a) G.S. 143-214.7C reads as rewritten:

"§ 143-214.7C. Prohibit the requirement of mitigation for impacts to intermittent streams; streams; establish threshold for mitigation of impacts to streams.

(a) Except as required by federal law, the Department of Environmental Quality shall not require mitigation for impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

- (1) It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.
- (2) The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.
- (3) It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

(b) Except as required by federal law, the Department of Environmental Quality shall not require mitigation for losses of 300 linear feet or less of stream bed.

(c) Except as required by federal law, for losses of more than 300 linear feet of stream bed, the Department of Environmental Quality shall not require mitigation for 300 linear feet of the losses.

SECTION 2.4.(b) The Environmental Management Commission shall amend its rules consistent with subsection (a) of this section.

SECTION 2.4.(c) The cochairs of the Environmental Review Commission shall examine the mitigation thresholds for losses of stream bed under the Regional Conditions adopted by the Norfolk, Charleston, and Savannah Districts of the United States Army Corps of Engineers and shall submit written comments to the Washington, D.C., Headquarters, the Wilmington District Office of the United States Army Corps of Engineers, and the North Carolina congressional delegation to encourage the Wilmington District to adopt Regional Conditions on



NORTH CAROLINA GENERAL ASSEMBLY
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the thresholds for losses of stream bed that are consistent with the Regional Conditions adopted by the Norfolk, Charleston, and Savannah Districts of the United States Army Corps of Engineers.";

on page 8, line 3, by rewriting the line to read:

"SECTION 2.11. Section 4 of S.L. 2001-355 is repealed.";

on page 8, lines 4 and 5,
by inserting between those lines:

"ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE

SECTION 2.12.(a) Committee Established. – There is established the North Carolina Sentinel Landscape Committee (Committee).

SECTION 2.12.(b) Findings and Purpose. – The General Assembly finds that sentinel landscapes are places where preserving the working and rural character of the State's private lands is important for both national defense and conservation priorities. It is the intent of the General Assembly to direct the Committee to coordinate the overlapping priority areas in the vicinity of and where testing and training occur near or adjacent to major military installations, as that term is defined in G.S. 143-215.115, or other areas of strategic benefit to national defense. Further, the Committee shall assist landowners in improving their land to benefit their operations and enhance wildlife habitats while furthering the State's vested economic interest in preserving, maintaining, and sustaining land uses that are compatible with military activities at major military installations and National Guard facilities. In its work, the Committee shall develop and implement programs and strategies that (i) protect working lands in the vicinity of and where testing and training occur near or adjacent to major military installations or other areas of strategic benefit to national defense, (ii) address restrictions that inhibit military testing and training, and (iii) forestall incompatible development in the vicinity of and where testing and training occur near or adjacent to military installations or other areas of strategic benefit to national defense.

SECTION 2.12.(c) Powers and Duties. – The Committee shall:

- (1) Recognize all lands in the State as Sentinel Landscapes areas that are so designated by the United States Department of Defense.
- (2) Identify and designate certain additional lands to be contained in the Sentinel Landscapes of this State that are of particular import to the nation's defense and in the vicinity of and where testing and training occur on, near, or adjacent to major military installations or are of other strategic benefit to the nation's defense. In this work, the Committee may seek advice and recommendations from stakeholders who have experience in this sort of identification and designation.
- (3) In designating sentinel lands as directed by subdivision (1) of this subsection, the Committee shall evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions conducted in this State. In its evaluation of which lands to designate as sentinel lands, the Committee shall consult with and seek input from:
 - a. The United States Department of Defense.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 131

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

S131-ATQ-1 [v.13]

Page 4 of 5

- b. The North Carolina Commander's Council.
 - c. The United States Department of Agriculture.
 - d. The United States Department of the Interior.
 - e. Elected officials from units of local government located in the vicinity of and where testing and training occur on the proposed sentinel lands.
 - f. Any other stakeholders that the Committee deems appropriate.
- (4) Develop recommendations to encourage landowners located within the sentinel landscape designated pursuant to subdivision (1) of this subsection to voluntarily participate in and begin or continue land uses compatible with the United States Department of Defense operations in this State.
 - (5) Provide technical support services and assistance to landowners who voluntarily participate in the sentinel landscape program.

SECTION 2.12.(d) Membership. – The Committee shall consist of at least the five following members:

- (1) The Commissioner of Agriculture, or the Commissioner's designee.
- (2) The Secretary of the Department of Military and Veterans Affairs, or the Secretary's designee.
- (3) The Secretary of Natural and Cultural Resources, or the Secretary's designee.
- (4) The Executive Director of the Wildlife Resources Commission, or the Executive Director's designee.
- (5) The Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

The Commissioner of Agriculture or the Commissioner's designee shall serve as Committee chair for an initial two year term. Thereafter, the Committee chair shall be one of the five listed members above. The Committee chair may appoint members representing other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands.

SECTION 2.12.(e) Transaction of Business. – The Committee shall meet, at a minimum, at least once during each calendar quarter and at other times at the call of the chair. A majority of members of the Committee shall constitute a quorum. The first Committee meeting shall take place within 30 days of the effective date of this act.

SECTION 2.12.(f) Reports. – The Committee shall report on its activities conducted to implement this section, including any findings, recommendations, and legislative proposals, to the North Carolina Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2017, and annually thereafter, until such time as the Committee completes its work.

SECTION 2.12.(g) Administrative Assistance. – All clerical and other services required by the Committee shall be supplied by the membership and shall be provided with funds available.";

on page 10, line 43, by rewriting the line to read:
"Division no later than January 1, 2019."; and



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 131**

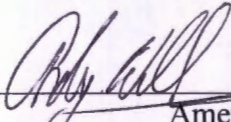
AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S131-ATQ-1 [v.13]

Page 5 of 5

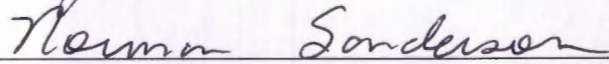
- 1 on page 18, line 16, through page 19, line 30,
2 by deleting those lines.

SIGNED _____



Amendment Sponsor

SIGNED _____



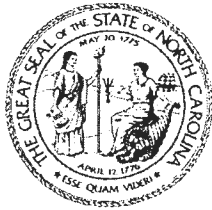
Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____





SENATE BILL 124: LEO Managed CBD Oil Drop Box.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 1, 2017
Introduced by:	Sens. D. Davis, Hise	Prepared by:	Jennifer Mundt
Analysis of:	First Edition		Committee Staff

OVERVIEW: *Senate Bill 124 would require residual oil from hemp extract to be disposed of in a secure collection box that is managed by law enforcement.*

CURRENT LAW: Enacted in 2014, the Epilepsy Alternative Treatment Act (Article 5G of Chapter 90 of the General Statutes, G.S. 90-113.100 et. seq.) allows for an individual to use hemp extract as an alternative treatment for intractable epilepsy. Also enacted in 2014, was an exemption from the Controlled Substances Act for individuals who possess or use hemp extract for the treatment of intractable epilepsy who also meet certain statutory criteria.

BILL ANALYSIS:

Section 1 of the act would add a new requirement to the statutes that allow for the use or possession of hemp extract to direct any individual who possesses or uses hemp extract to dispose of all residual oil from the extract at a secure collection box managed by a law enforcement agency.

Section 2 of the act would direct neurologists who approve of dispensation of hemp extract to a registered caregiver, to inform the caregiver of the requirement to dispose of all residual oil at a secure collection box managed by law enforcement.

EFFECTIVE DATE: This act would become effective December 1, 2017.

R. Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 124

Short Title: LEO Managed CBD Oil Drop Box. (Public)

Sponsors: Senators D. Davis, Hise (Primary Sponsors); Rabin and Waddell.

Referred to: Rules and Operations of the Senate

February 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE RESIDUAL OIL FROM HEMP EXTRACT TO BE DISPOSED AT
3 ESTABLISHED SPECIFIC SECURE COLLECTION BOXES MANAGED BY LAW
4 ENFORCEMENT.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 90-94.1 reads as rewritten:

7 "§ 90-94.1. Exemption for use or possession of hemp extract.

8 (a) As used in this section, "hemp extract" means an extract from a cannabis plant, or a
9 mixture or preparation containing cannabis plant material, that has all of the following
10 characteristics:

- 11 (1) Is composed of less than nine-tenths of one percent (0.9%)
12 tetrahydrocannabinol by weight.
13 (2) Is composed of at least five percent (5%) cannabidiol by weight.
14 (3) Contains no other psychoactive substance.

15 (b) Notwithstanding any other provision of this Chapter, an individual may possess or use
16 hemp extract, and is not subject to the penalties described in this Chapter, if the individual satisfies
17 all of the following criteria:

- 18 (1) Possesses or uses the hemp extract only to treat intractable epilepsy, as defined
19 in G.S. 90-113.101.
20 (2) Possesses, in close proximity to the hemp extract, a certificate of analysis that
21 indicates the hemp extract's ingredients, including its percentages of
22 tetrahydrocannabinol and cannabidiol by weight.
23 (3) Is a caregiver, as defined in G.S. 90-113.101.

24 (c) Notwithstanding any other provision of this Chapter, an individual who possesses
25 hemp extract lawfully under this section may administer hemp extract to another person under the
26 individual's care and is not subject to the penalties described in this Chapter for administering the
27 hemp extract to the person if the individual is the person's caregiver, as defined in
28 G.S. 90-113.101.

29 (d) Any individual who possesses or uses hemp extract, as defined under this section, shall
30 dispose of all residual oil from the extract at a secure collection box managed by a law
31 enforcement agency."

32 SECTION 2. G.S. 90-113.105 reads as rewritten:

33 "§ 90-113.105. Immunity for neurologists; confidentiality.

34 (a) On a case-by-case basis, neurologists may approve of dispensation to a registered
35 caregiver, as approved by this Article, hemp extract acquired from another jurisdiction.



1 (a1) Neurologists who approve of dispensation of hemp extract to a registered caregiver, as
2 approved by this Article, shall inform the registered caregiver of the requirement that disposal
3 must be done at a secure collection box pursuant to G.S. 90-94.1.

4 (b) A neurologist shall not be subject to arrest or prosecution, penalized or disciplined in
5 any manner, or denied any right or privilege for approving or recommending the use of hemp
6 extract or providing a written statement for the use of hemp extract pursuant to this Article.

7 (c) Repealed by Session Laws 2015-154, s. 7, effective July 16, 2015.

8 (d) The identities of the caregivers, patients, and neurologists reported to the Department
9 pursuant to this Article are confidential and are not matters of public record. However, this
10 information may be provided to law enforcement agencies pursuant to G.S. 9-113.102."

11 **SECTION 3.** This act becomes effective December 1, 2017.



Senate Committee On Agriculture/Environment/Natural Resources

March 2, 2017 – Room 544 LOB – 11:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
CHRIS DILLON	WATF
Jillie White	NLME
Amanda Donovan	TSS
Tonya Vlofton	TSS
Beth Ferree	Nurse of the Day
Carol Womble	Nurse of the Day
Elizabeth Biser	Brooks Pierce
Laurie Cheri'o	Walk West
Laura K. Ryan	Vista Capital
Sarah McClinton	K&MJC
Karen Higgins	DEQ
David Ferrell	VB
Jill Moore	North State Journal
Lois Antfarris	IAWA
Tom Bean	EDF







Senate Committee On Agriculture/Environment/Natural Resources

March 2, 2017 – Room 544 LOB – 11:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tommy Stevens	Stevens Lobby
Joy Hillis	NCDOT
Kathy Pridemore	DP
Jeff DeLuca	NCGA - LA
Sarah Koonce	NCDHE
Jennifer Haignwood	NCDHE
Mr. David G.	PPAD
Seh Peter	NC REALTORS
Jim Pitt	NURMA
John Blum	NCHMA
John Kengman	CSS
Stewart L. Harris	NCHBA
Harvey Jones	Food Price etc.
Paul Sherman	NCFB
John Amato	NCHBA
Bruce Thompson	Parkour POS
Keith Lammie	PLA
Jon Lanier	NEDA & CS



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 9, 2017, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

Consider issuance of subpoenas to Susi Hamilton and Michael Regan for appearance at committee meetings.

Other Business

Adjournment



**Senate Committee on Agriculture, Environment and
Natural Resources**

**Thursday, March 9, 2017 at 10:00 AM
Room 544 of the Legislative Office Building**

Minutes

The Senate Committee on Appropriations on Agriculture, Environment and Natural Resources met at 10:00AM on March 9, 2017 in Room 544 of the Legislative Office Building. 17 members were present.

Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Becky Myrick, Terry Edmondson and Larry Hancock and Pages Isaiah Mcle, New London, sponsored by Sen. McInnis; Hunter Gunnell, New London, sponsored by Senator McInnis; Andrew Beck, New London, sponsored by Sen. McInnis and Seth Heathman, New London, sponsored by Senator McInnis.


ISSUANCE OF SUBPOENA TO SECRETARY SUSI HAMILTON

Senator Paul Newton moves to take up the matter to subpoena Secretary Susi Hamilton, Secretary of Natural and Cultural Resources to appear and testify before the Committee members. Senator Wells took questions from Senator Angela Bryant, Senator Andrew Brock and Senator Mike Woodard. Senator Paul Newton made a motion to issue a subpoena to Susi Hamilton, Secretary of Natural and Cultural Resources to require her attendance and testimony before the committee on Thursday, March 23rd, 2017, at 10:00am in Room 544 of the Legislative Office Building. There are 13 votes in support and 3 opposed. One member abstained from voting. Motion passes.


ISSUANCE OF SUBPOENA TO SECRETARY MICHAEL REGAN

Senator Danny Britt, Jr. moves to take up the matter to subpoena Secretary Michael Regan to appear and testify before the Committee. Senator John Alexander seconds the motion. With no discussion from the committee, Senator Danny Britt, Jr. moved the committee to issue a subpoena to Secretary Michael Regan to require his attendance and testimony to appear before the committee on Thursday, March 30, 2017, in Room 544 of the Legislative Office Building. There are 13 votes in support and 3 opposed. One member abstained from voting. Motion passes.

There being no further business, the meeting adjourned at 10:20 AM.



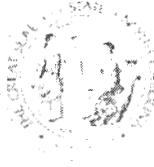
Senator Andy Wells, Chair Presiding



Linda Went, Committee Clerk



NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE SERVICES OFFICE
16 W. JONES STREET ROOM 2129
RALEIGH, NC 27601-1030



PAUL Y. COBLE
LEGISLATIVE SERVICES OFFICER
paul.coble@ncleg.net

LEGISLATIVE SERVICES OFFICE
TELEPHONE: (919) 733-7044
FAX: (919) 715-2739

SUBPOENA MEMORANDUM

TO: Senate Committee on Agriculture, Environment and Natural Resources
FR: Paul Y. Coble, Legislative Services Officer
DA: March 10, 2017
RE: Return of Subpoenas in Regard to Hamilton Hearing

Pursuant to G.S. 120-19.2 (f) the Legislative Services Officer is required to maintain a permanent record of all subpoena returns issued by the General Assembly for five years.

The Legislative Services Officer will distribute one copy of the subpoena returns for the Hamilton Hearing to the North Carolina Senate Committee on Agriculture, Environment and Natural Resources Co-Chairman Senator Bill Cook, Co-Chairman Senator Norman W. Sanderson, and Co-Chairman Senator Andy Wells; one copy of the return will be transmitted to the President of the Senate, Lieutenant Governor Dan Forest; and the President Pro Tempore of the Senate, Phil Berger.

A copy of this letter and the subpoena return must also be kept by the above mentioned offices.

cc: Lieutenant Governor Dan Forest, President of the Senate
Senator Phil Berger, President Pro Tempore of the Senate
Senator Bill Cook, Co-Chairman Senate Committee on Agriculture, Environment and Natural Resources
Senator Norman W. Sanderson, Co-Chairman Senate Committee on Agriculture, Environment and Natural Resources
Senator Andy Wells, Co-Chairman Senate Committee on Agriculture, Environment and Natural Resources



North Carolina General Assembly
Senate Committee on
Agriculture/Environment/Natural
Resources

STATE OF NORTH CAROLINA
County of Wake

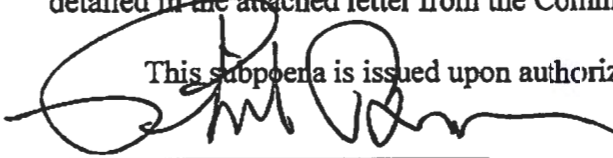
In the General Assembly of
North Carolina

SUBPOENA

TO: Secretary Susan H. Hamilton
North Carolina Department of Natural and Cultural Resources
109 East Jones Street
Raleigh, North Carolina 27601
(919) 807-7256

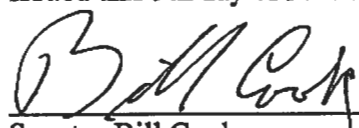
GREETING:

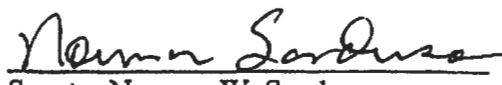
YOU ARE HEREBY COMMANDED to appear before the Senate Committee on Agriculture/Environment/Natural Resources (hereinafter "Committee") in Raleigh, North Carolina, on the 23rd day of March, 2017, at 10:00 o'clock a.m., in Room 544, of the Legislative Office Building, 300 North Salisbury Street, Raleigh, NC 27603, and as continued from time to time, to testify on matters before the Committee concerning your qualifications, potential conflicts of interest, and willingness to follow the law in your capacity as Secretary of the Department of Natural and Cultural Resources, as further detailed in the attached letter from the Committee Chairs dated, March 9, 2017.

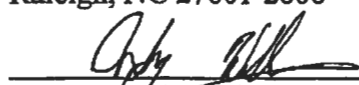

This subpoena is issued upon authorization of:

Senator Phil Berger
President Pro Tempore of the Senate

Issued this 9th day of March, 2017, by majority vote of the Committee:


Senator Bill Cook
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1026
Raleigh, NC 27601-2808


Senator Norman W. Sanderson
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1127
Raleigh, North Carolina 27601-2808


Senator Andy Wells
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1028
Raleigh, NC 27601-2808

OFFICER'S RETURN

I certify that the above subpoena was received on the 09th day of March, 20 17, and that on the 09th day of March, 20 17, it was served on Jennifer Fontes, Executive Assistant to Secretary Hamilton in the following manner: Personal Service

Chief M. B. [Signature]
Mat. [Signature]

G.S. 120-19.2; G.S. 1A-1, Rule 45

I am receiving this document for Susi H. Hamilton.

Jennifer M. Fontes
Jennifer M. Fontes
3/9/17

Rule 45. Subpoena.

...
(c)

Protection of Persons Subject to Subpoena. —

- (1) **Avoid undue burden or expense. —** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records. —** Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas. —** Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) **Order of court required to override objection. —** If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena. —** A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in

subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. – When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.
 - (7) Trade secrets; confidential information. – When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.
 - (8) Order to quash; expenses. – When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.
- (d) Duties in Responding to Subpoenas. –
- (1) Form of response. – A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
 - (2) Form of producing electronically stored information not specified. – If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
 - (3) Electronically stored information in only one form. – The person responding need not produce the same electronically stored information in more than one form.
 - (4) Inaccessible electronically stored information. – The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
 - (5) Specificity of objection. – When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.



**NORTH CAROLINA GENERAL ASSEMBLY
NORTH CAROLINA SENATE**

March 9, 2017

VIA HAND DELIVERY

Secretary Susan H. Hamilton
North Carolina Department of Natural and Cultural Resources
109 East Jones Street
Raleigh, North Carolina 27601

Dear Ms. Hamilton:

Congratulations on your nomination by Governor Cooper to serve as Secretary of the Department of Natural and Cultural Resources.

Your position is one that requires the advice and consent of the North Carolina Senate under N.C. Gen. Stat. § 143B-9 and Article III, Section 5(8) of the North Carolina Constitution. Additionally, because you were sworn in an acting capacity as Secretary of the Department, you are subject to the reporting and appearance obligations set out in Articles 5 and 5A of Chapter 120 of the General Statutes.

You have been asked to appear before the Senate Committee on Agriculture/Environment/Natural Resources on March 23, 2017, at 10:00 a.m. The point of the meeting is to allow the Committee to make an informed recommendation regarding your nomination. While we do not expect the meeting to be adversarial, you will be asked questions relating to your experience, potential conflicts of interest and your willingness to follow the law. While each member has discretion in selecting the questions he or she asks, we are providing to you a more detailed idea of what we expect will be potential areas of discussion.

To that end, enclosed is a rubric entitled "Potential Areas of Inquiry for Gubernatorial Nominees." You are not required to answer these questions prior to the meeting. However, we encourage you to give the potential questions thoughtful consideration and be prepared to discuss your answers with the committee's members. Of course, you are free to provide written responses, which may streamline or simplify the questions you receive during the meeting. Note

separately that the Committee will need a copy of your current Statement of Economic Interest prior to the hearing.

We look forward to seeing you on March 23rd. If you have further questions about the process, please do not hesitate to contact any of us.

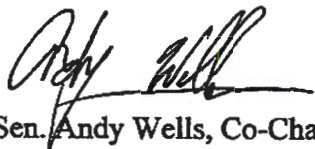
Sincerely,



Sen. Bill Cook, Co-Chair



Sen. Norman W. Sanderson, Co-Chair



Sen. Andy Wells, Co-Chair

cc: Gov. Roy Cooper

Enclosure

POTENTIAL AREAS OF INQUIRY FOR GUBERNATORIAL NOMINEES

**Unless specified otherwise, include responsive information for the past 15 years.*

QUALIFICATIONS

Education: Describe your undergraduate and graduate education history, including the institution(s), dates attended, degrees received and dates of degrees.

Honors and Awards: Detail all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and other special recognition you have received for outstanding service or achievement.

Employment History: Detail all positions held since college, including the title and description of each position, name of employer, location of work, and inclusive dates of employment.

Government Experience: Describe any experience in or direct association with federal, state, or local governments, including any advisory, consultative, board, honorary or other part time service or positions.

Membership, Affiliations and Activities: Detail all memberships and offices held in and services rendered to, professional, fraternal, business, scholarly, civic, charitable, political parties, election committees or other organizations. Include names of the organizations, as well as the office(s) and dates held.

Published Writings; Speeches: List/describe all books, articles, reports, seminar or other educational materials, editorials, speeches, prepared remarks or other published materials you have written, co-written or recorded, including those published only on the Internet. Please be prepared to provide a copy of documents that are not independently accessible. If copies are unavailable to you, list the title, publisher, date of publication, and a description of the published work. Include any videos that are responsive.

Teaching: Detail all courses you have taught. For each course, provide the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught.

POTENTIAL CONFLICTS OF INTERESTS

Employment Relationships, Outside Commitments During Service: Explain whether:

- You plan to sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.
- As far as can be foreseen, you have any plans after completing this government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.
- Anyone has made you a commitment to a job after you leave government.
- You expect to serve the full term for which you have been appointed.
- You have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service.

Impact of Prior Employment/Activities:

- Detail all previous job responsibilities for employers included in Section IV, "Employment History," that may stand in conflict to current or proposed rules, regulations, laws, or other policies of the state of North Carolina for which, if confirmed, you would be responsible for regulating.
- If you have engaged in any activities (including but not limited to consulting, advocacy, charitable, educational, electioneering, state or federal lobbying, goodwill lobbying, political, or otherwise) that relate, affect, or impact any of the areas that you would be responsible for regulating, if confirmed, provide all activities, time expended, and if financial or other benefits or compensation were received.
- Describe any business relationships, contracts, dealings or financial transactions (other than paying taxes) which you have had with the state of North Carolina, whether for yourself, on behalf of a client, or acting as an agent. Explain whether any of these relationships, dealings or transactions may, in any way, constitute or result in a possible conflict of interest with the position to which you have been nominated.
- For each area of potential or actual conflict identified, if any, detail how it will be remedied to fulfill your duty to faithfully discharge your duties of the office in which you have been nominated.

Political Contributions: List the political contributions over \$50.00 that you have made to an individual, campaign organization, political party, political action committee or similar entity during the last 10 years and identify specific amounts, dates, and names of recipients.

Legal Actions:

- Provide the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a federal, state, or local agency in which you were the subject of the inquiry or investigation.
- Provide the full details of any proceeding, inquiry or investigation by any professional association, including any professional association in which you were the subject of the proceeding, inquiry or investigation.
- Have you or any business or organization of which you are or were an officer or board member, ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.



**North Carolina Department of Natural and Cultural Resources
Office of the Secretary**

Governor Roy Cooper

March 31, 2017

Secretary Susi H. Hamilton

Senator Bill Rabon, Co-Chair
Senator Tommy Tucker, Co-Chair
Senate Select Committee on Nominations
NC General Assembly
Raleigh, NC 27601-2808

Dear Senators Rabon and Tucker:

I am writing to share additional information as a follow-up to questions asked of me during my confirmation hearing last week.

First, Hamilton Planning, Inc. is a registered NC Corporation that provides development and business consulting services related to land use planning and real estate development in urban areas. Because the company handles a small amount of business and my husband and I are the owners, contracts for services are secured by Hamilton Planning, Inc. but payment is made to Susan Hamilton. Out of an abundance of caution with my SEI reports, I have always reported the business entity on the form even though the consulting service fees are paid directly to Susan Hamilton.

Second, in preparing the SEI report, I inadvertently included the reference to Coastal Legacy for a residential real estate transaction that took place in December 2015. This was included on the form in error, and I have made the correction on my most recent SEI form, which is enclosed for your information. In 2015 and 2016, I was a member of both the residential MLS and Commercial MLS in NC. My commercial brokerage is under Environments Unlimited, and my residential brokerage is under Coastal Legacy. The broker in charge is the same for both entities. I did not have any real estate brokerage income in 2016.

Thank you for the opportunity to share this information. If I may be of any further assistance, please do not hesitate to call on me.

It is my honor to continue to serve North Carolina in this new capacity, and I sincerely appreciate the support of the committee in my confirmation process last week.

Sincerely,

A handwritten signature in cursive script that reads "Susi H. Hamilton".

Susi H. Hamilton
Secretary

Enclosure

MAILING ADDRESS:
4601 Mail Service Center
Raleigh, NC 27699-4600

Telephone: (919) 807-7250
Fax: (919) 733-1564

LOCATION:
109 East Jones Street
Raleigh, NC





NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST

919-814-3600

www.ethicscommission.nc.gov

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Mrs.	Susan	Holladay	Hamilton	
CURRENT EMPLOYER			JOB TITLE	
NC Department of Natural and Cultural Resources			Secretary	
NATURE OR TYPE OF BUSINESS				
Government				
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify Agency)			BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)	
Natural and Cultural Resources, Department of				
JUDICIAL OFFICER (Specify Office)			LEGISLATOR (Specify House or Senate)	



A. Do other immediate family members reside in your household?

☒ Yes ☐ No

When used throughout this form, the term **Immediate family** includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) **who reside in your household**.

List the full name of **all adults and emancipated minors** in your household. A minor is a child under 18 years old. Minors are emancipated by marriage, enlistment in the US military, or court order for emancipation.

FULL NAME OF ADULTS & EMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
Stephen Howard Hamilton, Jr.	Husband	City of Wilmington	Parks and Recreation	Athletics

B. List **ONLY** the initials of all **unemancipated minors** in your household below. A minor is a child under 18 years old.

Note: You must list the full name of each minor child on the Confidential Form available at the end of this document.

INITIALS FOR UNEMANCIPATED CHILDREN	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
PH	Daughter	None	None	None

PROPERTY INTERESTS

1. As of December 31, 2016, did you, your spouse, or members of your immediate family:

A. Have an ownership interest in North Carolina real estate (including your residence) with a market value of \$10,000 or more?

☒ Yes ☐ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County
Steve and Susi Hamilton	100	Wilmington	New Hanover County
Steve and Susi Hamilton	100	Wilmington	New Hanover County

B. Lease or rent real estate or personal property to or from the State of North Carolina with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2015 or 2016, did you, your spouse, or members of your immediate family sell to or buy from the State of North Carolina personal property with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Purchaser	Name of Seller	Type of Property

FINANCIAL INTERESTS

3. As of December 31, 2016, did you, your spouse, or members of your immediate family own any of the following financial interests valued at \$10,000 or more? LIST EACH COMPANY INDIVIDUALLY

A. Stock in a publicly owned company?

☐ Yes ☒ No

- Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if: (i) the fund is publicly traded or its assets are widely diversified; and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)

B. Stock Options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations)?

☒ Yes ☐ No If "No", proceed to question 4.

Owner of Interest	Name of Company or Business Entity
Susi and Steve Hamilton	Hamilton Planning, Inc.
Susi and Steve Hamilton	East West Water Street, LLC

C (1). For each non-publicly owned company or business entity (the "primary company") identified in question 3.C above, please list the names of *any other companies or business entities* in which the primary company owns securities or equity interests valued at over \$10,000, if known.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
<input checked="" type="checkbox"/> None or Not Known	

C (2). If you know that any company or business entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts *with the State of North Carolina*, or is *regulated by the State*, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
------------------------------------	---

☒ None or Not Known

4. As of December 31, 2016, were you, your spouse, or members of your immediate family the beneficiaries of a vested trust with a value of \$10,000 or more that was created, established, or controlled by you?

Do not list assets held in blind trusts. See 2017 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2016, did you, your spouse, or members of your immediate family have liabilities of \$10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☒ Yes ☐ No

Name of Debtor (You, Spouse, Immediate Family Member)	Type of Creditor (Commercial Bank, Credit Union, Individual, etc.)
Visa	Credit Card
Corning Federal	Car Loan
SECU	Personal Loan
Corning Federal Credit Union	Car Loan

6. List each source of income (not specific amounts) of more than \$5,000 received by you, your spouse, or members of your immediate family during 2016. Include salary, wages, state/local government retirement, professional fees, honoraria, interest, dividends, rental income, business income, and other types of income required to be reported on your State and federal tax returns.

Do not include income received from the following sources:

- ▶ Capital gains
- ▶ Federal government retirement
- ▶ Military retirement
- ▶ Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
<input type="checkbox"/> I had no reportable income over \$5,000 in 2016.			
Susi Hamilton	Blue Ridge Properties	Real Estate Development	Consulting Fees
Susi Hamilton	The Carroll Companies	Real Estate Development	Consulting Fees
Susi Hamilton	East West Partners	Real Estate Development	Consulting Fees
Susi Hamilton	Halpern Properties	Real Estate Development	Consulting Fees
Susi Hamilton	Swain & Associates	Real Estate Development	Consulting Fees
Stephen Hamilton	City of Wilmington	Government	Salary

PROFESSIONAL AND CIVIC RELATIONSHIPS

7(a). During 2016, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

☐ Yes ☒ No **If "No", proceed to question 8.**

- ▶ Do not list State boards or entities, or entities created by a political subdivision of the State.
- ▶ Do not list organizations of which you are a mere member.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, please provide a brief description of the nature of that business, if known or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business or State Funding
<input type="checkbox"/> None or Not Known	

Please answer the following question as it pertains to the following board/agency:

Natural and Cultural Resources, Department of

8. During 2016, were you, your spouse, or members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

☒ Yes ☐ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to those offices.

▶ Do not list organizations of which you are only a member (not serving in a leadership role).

Name of Person	Name of Society, Organization or Advocacy Group	Leadership Position (Director, Officer, Board Member)
Susi Hamilton	Cucalus Film Festival	Board of Directors

9(a). List the name of each company or business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2016.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input type="checkbox"/> No Business Associations			
Susi Hamilton	Self	Hamilton Planning	CEO
Stephen Hamilton	Husband	Hamilton Planning	Officer
Susi and Steve Hamilton	Self	East West Water Street, LLC	Partner

9(b). If you know that any company or business entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2016, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> Not applicable (No entities listed on #9a) <input checked="" type="checkbox"/> No relationship / Not known	

10. Are you a practicing attorney?

☐ Yes ☒ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than \$10,000 during 2016.

<input type="checkbox"/> Administrative	<input type="checkbox"/> Admiralty	<input type="checkbox"/> Corporate	<input type="checkbox"/> Criminal
<input type="checkbox"/> Decedent's Estates	<input type="checkbox"/> Environmental	<input type="checkbox"/> Insurance	<input type="checkbox"/> Labor
<input type="checkbox"/> Local Government	<input type="checkbox"/> Real Property	<input type="checkbox"/> Securities	<input type="checkbox"/> Tax
<input type="checkbox"/> Tort litigation (including negligence)	<input type="checkbox"/> Utilities Regulation	<input type="checkbox"/> Other category not listed.	

11. During 2016, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over \$10,000?

☒ Yes ☐ No

Type of Business	Nature of Services Rendered
Real Estate	Consulting
Real Estate	Agent

Please answer the following question as it pertains to the following board/agency:

Natural and Cultural Resources, Department of

12. Are you or your employer, your spouse or members of your immediate family, or their employer currently:

- Licensed by the State board or employing entity with which you are or will be associated or
- Regulated by the State board or employing entity with which you are or will be associated or
- Have a business relationship with the State board or employing entity with which you are or will be associated?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer ("judicial officer" is defined in the SEI Helpful Tips) or you are filing as an appointee to those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)

13. Are you, your spouse, or a member of your immediate family currently registered as a lobbyist or lobbyist principal or were you registered as such within the 12 months preceding your filing of this form?

☐ Yes ☒ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration

OTHER DISCLOSURES

14. During any calendar quarter in 2016 (but only the time period after you were appointed, employed or filed or were nominated as a candidate), did you

- receive any gift(s) exceeding \$200 per quarter from a person or group of persons acting together, and
- when both you and those person(s) were outside North Carolina at the time you accepted the gift(s), and
- the gift(s) were given under circumstances that would lead a reasonable person to conclude that they were given for lobbying?

☐ Yes ☒ No

- ▶ Do not report gifts given by members of your extended family.
- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Natural and Cultural Resources, Department of

15. During 2016 (but only the time period after you were appointed, employed, or filed or were nominated as a candidate) did you

- accepted a "scholarship" exceeding \$200 from a person or group of persons acting together and
- those person(s) were outside North Carolina and
- the scholarship was related to your public position? A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☒ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."
- ▶ Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member or participant or an affiliate of that organization.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Natural and Cultural Resources, Department of

16. Were you appointed or are you being considered for an appointment to a covered board by the **Governor** or another Council of State member?

Council of State members are:

- Governor
- Lt. Governor
- Secretary of State
- State Auditor
- State Treasurer
- Superintendent of Public Instruction
- Attorney General
- Commissioner of Agriculture
- Commissioner of Labor
- Commissioner of Insurance

☒ Yes ☐ No

If "Yes", list all contributions you (NOT immediate family members) made during 2016 with a cumulative total of more than \$1,000 to the Governor or other Council of State member who appointed you.

- Contributions are defined in N.C.G.S. 163-278.6(6) and include, but are not limited to, "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
<input checked="" type="checkbox"/> No contribution(s) with a cumulative total of more than \$1,000		

Please answer the following question as it pertains to the following board/agency:

Natural and Cultural Resources, Department of

17. Are you an appointee or prospective appointee to:

- a. the head of a principal state department (e.g. cabinet secretary) appointed by the Governor;
or
b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge;
or
c. a member of any of the following boards:

- ABC Commission
- Coastal Resources Commission
- State Board of Education
- State Board of Elections
- Division of Employment Security
- Environmental Management Commission
- Industrial Commission
- Human Resources Commission
- Rules Review Commission
- Board of Transportation
- UNC Board of Governors
- Utilities Commission
- Wildlife Resources Commission

☒ Yes ☐ No

If "No", proceed to question 18.

d. If so, were you appointed or are you being considered for appointment to that public position by a Council of State member? Council of State members are listed in question 16.

☒ Yes ☐ No

If "No", proceed to question 18.

e. If so, you must indicate whether during 2016 you (not immediate family members) engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you to your public position:

☐ Yes ☒ No

i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee? Contributions are defined in question 16.

ii. Hosted a fundraiser at your residence or place of business?

☐ Yes ☒ No

iii. Volunteered for campaign-related activities, which include, but are not limited to, phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?

☒ Yes ☐ No

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon of innocence; or (ii) an order of expungement regarding that conviction?

☐ Yes ☒ No

Offense	Date of Conviction	County of Conviction	State of Conviction

19. Are you aware of any other information that *you believe* may assist the State Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide such information below.

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

☒ I Agree. It is my intention that this check box constitutes my electronic signature. By checking this box I certify that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

Filed Electronically

Signature

3/31/2017

Date

Susan Holladay Hamilton

Printed Name



Senate Committee On Agriculture/Environment/Natural Resources

March 9, 2017 – Room 544 LOB – 10:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
F.M. BEAN	EDF, NWF
Matthew Starr	Riverkeeper
Jon Canier	NCDQ DFS
John Cooper	Connect C
LYRE STANLEY	Jones Street Consulting
Lex Jones	DNCR
May Maulec Asbell	SEC
John	NWC
Madeline Hurley	Ward and Smith, P. A.
Henry M Lancaster	LCA
Cassie Gavin	Siema Club
John	WRC
Donna Culkin	La M... of KMC



[illegible]



Senate Agriculture/Environment/Natural Resources Committee
Thursday, March 23, 2017, 10:00 AM
544 Legislative Office Building
Raleigh, North Carolina

AGENDA

Welcome and Opening Remarks
Senator Bill Cook

Introduction of Pages and Sergeant-at-Arms

Business

Consider Susie Hamilton appointment to the office of Secretary of the N.C.
Department of Natural and Cultural Resources

Other Business

Please feel free to take the enclosed materials, but leave your folders to be used at
the next meeting.

Adjournment



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, March 23, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 a.m., on March 23, 2017 in Room 544 of the Legislative Office Building - 14 members were present.

Senator Bill Cook, Chair, presided the meeting to consider Susie Hamilton appointment to the office of Secretary of the N.C. Department of Natural and Cultural Resources.

Cook: Welcome. A three judge court recently affirmed to hold these hearings –plan to vote on the confirmation of the nomination by the end of the meeting. Outline of qualifications: to inform if she is qualified, has any conflicts of interest, and if she intends to follow the law.

Court reporter: Carol Smith to court the proceedings- swore Mrs. Hamilton in.

Hamilton: Graduated from UNC Chapel Hill with a Bachelor's degree in Art in History as well as Art history- first job with Historical Preservation Office, senior planner for the City of Wilmington, Exec. Director of Wilmington downtown- now a vibrant thriving downtown, then went on to receive masters in public administration at UNCW in education. In 2010 elected to serve District 18 of the NC House of Representatives, re-elected 4 times, and will proudly build on the department inherited from Secretary Susan Klutz.

Brock: The department you inherited did have a lot of issues, especially under the Easley administration that Perdue helped straighten out, looking at that how do you look to expand those issues where we've had success and not to go back to the old ways of doing things and backtrack into those areas?

Hamilton: During the Easley administration I was immersed in local government, not entirely sure of the issues spoken of, will say that one thing I voted for was the combination of the Department of Natural and Cultural Resources, we have incredible opportunity in this state with the combination of these resources to further our economic impact based on bringing these ideas together. In most cases in this state where we have a state park, there is usually an associated historic architectural resource, we believe if we can integrate these things and preserve resources and create some synergies there it will assist with revitalization of some of these rural areas that are lacking in economic opportunities right now.

Wells: Aware of the complications of filling in a statement of economic interests in multiple companies, in looking in your Statement of Economic Interest, pages 5, 6, and 7, looking at page 6, I am trying to understand the makeup of Hamilton Planning, I understand from your SEI that it is owned by you and your husband, you received no income exceeding 5,000 dollars from Hamilton Planning, is that correct?



Hamilton: I am not a CPA, so going back and trying to remember how the tax filings have gone, it may be that the contracts were arranged through Hamilton Planning and payments were made directly to me as personal reported income from the entities that you see on page 5.

Wells: What is the planned outcome for Hamilton Planning while you spend what may be a 4 year period as a full-time employee of the State of North Carolina? Will it continue operating?

Hamilton: No sir. There are transactions that were underway long before actually going as far back as 2014 that may result in some finalization in the near future but there will be no new business taken on by Hamilton Planning and no active participation moving forward. That's been the case since I went into the role.

Newton: Have you ever been a defendant in a civil or criminal lawsuit?

Hamilton: No sir.

Newton: Have any of the entities we've talked about today in previous questions to your knowledge been defendants in lawsuits?

Hamilton: Not to my knowledge.

Newton: Do you think it is generally a good idea to have cabinet members be confirmed by the Senate?

Hamilton: I am perfectly comfortable with transparency and here willingly and I think the citizens of North Carolina should know their secretaries better and if this helps in that process then I am comfortable with that.

Newton: Did the governor himself give you any direction about your attendance here?

Hamilton: No sir, he did not.

Newton: Do you believe that it's ever appropriate to violate the law because your political ideology does not agree with that law?

Hamilton: No sir, I do not.

Sanderson: Could you tell this committee the date that you took the reins of the Department?

Hamilton: I believe that it was January 26th of this year.

Sanderson: In your time have you been able to identify what the two or three most critical risks are for Agriculture Resources? What things have you put in a priority to address head on?

Hamilton: This department has a long history of maintaining staff long term. Because of that there is a continuity of services that the department is able to provide that keeps us on pretty



steady ground moving forward. I think the most important issue is the repair and renovation of our existing historic resources. During the recession we were asked to reduce our expenditures as much as possible and we went from about a half a million dollars from repair and renovation down to around as low as \$40,000. We have gradually raised it up but we are still under \$100,000. We do well with that limited resource, but if there was anything I could do to impress upon the General Assembly the need for us to increase that fund and to work to protect our cultural resources and our natural resources. That's where I think our biggest Achilles heel is at this point.

Sanderson: Can you tell us in the 6 weeks you've been in the department how many people that you have had to excuse from their job?

Hamilton: Three.

Sanderson: Yesterday we delivered to you a news article that was from a local paper in New Bern where a certain entity of Department of cultural resources is located, did you receive it?

Hamilton: Yes.

Sanderson: Did you review it and go through the article?

Hamilton: Yes, I had seen it prior to it being sent to me but I did take another look.

Sanderson: For someone who has been involved with Tryon Palace it was very disturbing to see an editorial to see what happened in that situation. Have any of the people you had to terminate, has that caused fallout or any negative situations as far as the Department of Cultural Resources?

Hamilton: I don't believe so. We are responsible for the State staff and has far as they are Concerned, things are continually moving smoothly in the department. Tryon Palace is a state gym and we are lucky to have this treasure. No one takes this lightly; they do very good work gaining funds both private and funded. There are many projects and we feel very confident working with our chairman Mr. Bill Cannon. We are working hard to look at the job description and fill this position. Kevin and Bill McCray are there 2-3 days a week.

Sanderson: I am very disturbed by what I have read; I am asking what you will do to make this right because Tryon Palace cannot exist without volunteers.

Hamilton: The volunteer component is critical to the success. I was in Whiteville yesterday morning and I am planning to expand this throughout the state. We emphasize the need for volunteers, it is truly the grassroots. The executive director roll needs to be filled and then we can maintain and preserve Tryon Palace.

Sanderson: Are you aware of the situation where there was a considerable donation getting ready to being paid and now that is in jeopardy because of some personal decisions that have been made?



Hamilton: No sir, I am not aware of any private donations because it is a private entity. I will say to address the editorial or at least one component, the commission of Tryon Palace is responsible for the implementation of capital projects. The State of North Carolina does not control that process.

Sanderson: Can you share with us your method of determining whether or not someone is capable of fulfilling their position? For clarification, leadership positions?

Hamilton: I operate mostly on humor, a little bit of humility, and the skills I look for in hiring my senior staff are leadership, curiosity, willingness to ask questions, honesty, and someone who is able to build coalitions and consensus. So far, I believe that in most cases we have done a good job selecting people and retaining people with this skill set.

Woodard: As a representative that has three historic sites in there, I have been pleased by how your predecessors have run things: Dr. Cherry has offered great leadership there. How do you view the roles of North Carolina's cultural life and economic development?

Hamilton: I am a firm believer that the protection of our natural resources and the preservation of our historic sites and our museums are critical to the economy in our state particularly how it relates to our rural communities. The natural sciences museum in downtown Whiteville- we saw two classes of 3rd graders who were learning by doing and we had 5 communities that are interested in downtown revitalization looking for a partnership. Tourism is the 2nd largest industry in NC, and the numbers are clear that we are benefitting from the natural and cultural resources. It's time for us to translate the urban revitalization to the smaller more rural communities and we can build an economy around that. The zoo is another fine example. In today's world, we are looking at sites around the zoo to assist- these entire things combine make a greater impact.

Woodard: I have some concern, and would like to hear for you how you intend to support local arts organizations primarily in our rural communities?

Hamilton: We support local arts councils to the best of our abilities through federal funds and grass roots funds through federal appropriations that allow us to put grants into the field. Unfortunately there are small arts councils throughout the states that had to significantly reduce their budgets or in the worst case, close their doors. There are questions at the federal level if we will still be able to fund these projects.

Woodard: The funding for the Clean Water Trust fund has been decreased dramatically, what are your thoughts about restoring funding?

Hamilton: I agree with you and the Clean Water Trust Fund helps create and restore our natural infrastructure in the state. It is very important that we maintain that fund, but this year Gov. Cooper's budget did increase the program over the biennium. I believe that it is a \$25 million dollar mark.



Jackson: In last year's budget, we allowed the North Carolina Zoo to work with public and private, how do you envision this being fulfilled to its fullest?

Hamilton: This project is the most exciting at the moment. The plan offers the most incredibly opportunity for Asheboro. I am exciting to get into this project- it is a win-win for the private sector and the state of NC. It is globally recognized and will only enhance the zoo for the community and take it to the next level.

Jackson: The battleship in Wilmington has done phenomenal with private funding, do you have a vision with our other attractions to get more private funding than state funding?

Hamilton: The question comes down to capacity, and I agree that it is a great resource. It is a national historic landmark and the funding opportunities are increased by its designation. Yes, our goal every year is to encourage the commissions to increase their fundraising output and we are looking for ways to generate revenue. I pride myself on bringing the public private to the table.

Jackson: The governor's budget has allocated 2 and a half million dollars for operating expenses, 23 full time to work with the Bond project. Could you explain needing 23 new jobs coming out of the Bond money?

Hamilton: As we bring those facilities on, it requires human resource demands. Our position is that we need to meet our staffing demands.

Jackson: I ask that as you move forward, this Bond money is not recurring, and it should not be used for jobs that are recurring. Every time you add on new property, are we going to see additional requests to pay for this?

Hamilton: I think that your point is well made and we do need to look at requesting an increase on that bottom line and your point is valid and we will take a look at it.

Waddell: How is your experience as a city planner valuable to you with culture and natural resources?

Hamilton: It is the most important skill because I loved my time as a city planner and I use those skills every day. It is very applicable to the Department because so much of what we do involves real property- the infrastructure needs have been prepared for through my time as a city planner.

Waddell: You alluding to the State of Mecklenburg, how are they important to the sites?

Hamilton: The State of Mecklenburg has substantial investment both state owned and not state owned, as Charlotte does well so does its surrounding communities. Some of our strongest art supporters come out of here.



Wade: I have had phone calls about other donations- in Senator Sanderson's area- and their concerns due to the changes at Tryon Palace? I understand that you have seen the article prior to this meeting and your answer to Senator Sanderson's question concerned me with what you thought that everything would work out with the new director of leadership?

Hamilton: The private fundraising does take place through the foundation at Tyron Palace and the foundation is then in charge of determining the funding needs for the facility. The state's roll is managing state personnel on the site. My sense of the article was that the state indirectly implied that the state was not responsible for continuing funding, and that is not true. The first thing that needs to be done is to reiterate that the people need not worry and their money is not tied to one person, but it tied to a project.

Newton: Why should this committee not be concerned that you are utilizing two cell phones?

Hamilton: One personal cell phone for family and one cell phone for work.


Newton: I move that the Committee on Agriculture/Environment/Natural Resources recommend to the Senate Committee of Nominations that Mrs. Hamilton be confirmed to be confirmed to the office of Secretary of the N.C. Department of Natural and Cultural Resources.

Motion Passes: Aye: 11 – No: 3

The meeting adjourned at 11:19 a.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk



North Carolina General Assembly
Senate Committee on
Agriculture/Environment/Natural
Resources

STATE OF NORTH CAROLINA
County of Wake

In the General Assembly of
North Carolina

SUBPOENA

TO: Secretary Susan H. Hamilton
North Carolina Department of Natural and Cultural Resources
109 East Jones Street
Raleigh, North Carolina 27601
(919) 807-7256


GREETING:


YOU ARE HEREBY COMMANDED to appear before the Senate Committee on Agriculture/Environment/Natural Resources (hereinafter "Committee") in Raleigh, North Carolina, on the 23rd day of March, 2017, at 10:00 o'clock a.m., in Room 544, of the Legislative Office Building, 300 North Salisbury Street, Raleigh, NC 27603, and as continued from time to time, to testify on matters before the Committee concerning your qualifications, potential conflicts of interest, and willingness to follow the law in your capacity as Secretary of the Department of Natural and Cultural Resources, as further detailed in the attached letter from the Committee Chairs dated, March 9, 2017.



This subpoena is issued upon authorization of:

Senator Phil Berger
President Pro Tempore of the Senate

Issued this 9th day of March, 2017, by majority vote of the Committee:


Senator Bill Cook
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1026
Raleigh, NC 27601-2808


Senator Norman W. Sanderson
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1127
Raleigh, North Carolina 27601-2808


Senator Andy Wells
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1028
Raleigh, NC 27601-2808



OFFICER'S RETURN

I certify that the above subpoena was received on the 09th day of March, 20 17, and that on the 09th day of March, 20 17, it was served on Jennifer Fontes, Executive Assistant to Secretary Hamilton in the following manner: Personal Service

Chief M. B. [Signature]
[Signature]

G.S. 120-19.2; G.S. 1A-1, Rule 45

I am receiving this document for Susi H. Hamilton.

Jennifer M. Fontes
Jennifer M. Fontes
3/9/17



Rule 45. Subpoena.

...
(c) **Protection of Persons Subject to Subpoena. —**

- (1) **Avoid undue burden or expense. —** A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) **For production of public records or hospital medical records. —** Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) **Written objection to subpoenas. —** Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) **Order of court required to override objection. —** If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) **Motion to quash or modify subpoena. —** A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in



subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. – When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

- (7) Trade secrets; confidential information. – When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

- (8) Order to quash; expenses. – When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoenas. –

- (1) Form of response. – A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.
- (2) Form of producing electronically stored information not specified. – If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.
- (3) Electronically stored information in only one form. – The person responding need not produce the same electronically stored information in more than one form.
- (4) Inaccessible electronically stored information. – The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.
- (5) Specificity of objection. – When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.





**NORTH CAROLINA GENERAL ASSEMBLY
NORTH CAROLINA SENATE**

March 9, 2017

VIA HAND DELIVERY

Secretary Susan H. Hamilton
North Carolina Department of Natural and Cultural Resources
109 East Jones Street
Raleigh, North Carolina 27601

Dear Ms. Hamilton:

Congratulations on your nomination by Governor Cooper to serve as Secretary of the Department of Natural and Cultural Resources.

Your position is one that requires the advice and consent of the North Carolina Senate under N.C. Gen. Stat. § 143B-9 and Article III, Section 5(8) of the North Carolina Constitution. Additionally, because you were sworn in an acting capacity as Secretary of the Department, you are subject to the reporting and appearance obligations set out in Articles 5 and 5A of Chapter 120 of the General Statutes.

You have been asked to appear before the Senate Committee on Agriculture/Environment/Natural Resources on March 23, 2017, at 10:00 a.m. The point of the meeting is to allow the Committee to make an informed recommendation regarding your nomination. While we do not expect the meeting to be adversarial, you will be asked questions relating to your experience, potential conflicts of interest and your willingness to follow the law. While each member has discretion in selecting the questions he or she asks, we are providing to you a more detailed idea of what we expect will be potential areas of discussion.

To that end, enclosed is a rubric entitled "Potential Areas of Inquiry for Gubernatorial Nominees." You are not required to answer these questions prior to the meeting. However, we encourage you to give the potential questions thoughtful consideration and be prepared to discuss your answers with the committee's members. Of course, you are free to provide written responses, which may streamline or simplify the questions you receive during the meeting. Note



separately that the Committee will need a copy of your current Statement of Economic Interest prior to the hearing.

We look forward to seeing you on March 23rd. If you have further questions about the process, please do not hesitate to contact any of us.

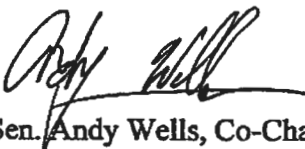
Sincerely,



Sen. Bill Cook, Co-Chair



Sen. Norman W. Sanderson, Co-Chair



Sen. Andy Wells, Co-Chair

cc: Gov. Roy Cooper

Enclosure



POTENTIAL AREAS OF INQUIRY FOR GUBERNATORIAL NOMINEES

**Unless specified otherwise, include responsive information for the past 15 years.*

QUALIFICATIONS

Education: Describe your undergraduate and graduate education history, including the institution(s), dates attended, degrees received and dates of degrees.

Honors and Awards: Detail all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and other special recognition you have received for outstanding service or achievement.

Employment History: Detail all positions held since college, including the title and description of each position, name of employer, location of work, and inclusive dates of employment.

Government Experience: Describe any experience in or direct association with federal, state, or local governments, including any advisory, consultative, board, honorary or other part time service or positions.

Membership, Affiliations and Activities: Detail all memberships and offices held in and services rendered to, professional, fraternal, business, scholarly, civic, charitable, political parties, election committees or other organizations. Include names of the organizations, as well as the office(s) and dates held.

Published Writings; Speeches: List/describe all books, articles, reports, seminar or other educational materials, editorials, speeches, prepared remarks or other published materials you have written, co-written or recorded, including those published only on the Internet. Please be prepared to provide a copy of documents that are not independently accessible. If copies are unavailable to you, list the title, publisher, date of publication, and a description of the published work. Include any videos that are responsive.

Teaching: Detail all courses you have taught. For each course, provide the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught.



POTENTIAL CONFLICTS OF INTERESTS

Employment Relationships, Outside Commitments During Service: Explain whether:

- You plan to sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.
- As far as can be foreseen, you have any plans after completing this government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.
- Anyone has made you a commitment to a job after you leave government.
- You expect to serve the full term for which you have been appointed.
- You have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service.

Impact of Prior Employment/Activities:

- Detail all previous job responsibilities for employers included in Section IV, "Employment History," that may stand in conflict to current or proposed rules, regulations, laws, or other policies of the state of North Carolina for which, if confirmed, you would be responsible for regulating.
- If you have engaged in any activities (including but not limited to consulting, advocacy, charitable, educational, electioneering, state or federal lobbying, goodwill lobbying, political, or otherwise) that relate, affect, or impact any of the areas that you would be responsible for regulating, if confirmed, provide all activities, time expended, and if financial or other benefits or compensation were received.
- Describe any business relationships, contracts, dealings or financial transactions (other than paying taxes) which you have had with the state of North Carolina, whether for yourself, on behalf of a client, or acting as an agent. Explain whether any of these relationships, dealings or transactions may, in any way, constitute or result in a possible conflict of interest with the position to which you have been nominated.
- For each area of potential or actual conflict identified, if any, detail how it will be remedied to fulfill your duty to faithfully discharge your duties of the office in which you have been nominated.

Political Contributions: List the political contributions over \$50.00 that you have made to an individual, campaign organization, political party, political action committee or similar entity during the last 10 years and identify specific amounts, dates, and names of recipients.



Legal Actions:

- Provide the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a federal, state, or local agency in which you were the subject of the inquiry or investigation.
- Provide the full details of any proceeding, inquiry or investigation by any professional association, including any professional association in which you were the subject of the proceeding, inquiry or investigation.
- Have you or any business or organization of which you are or were an officer or board member, ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.



Sun Journal

NEW BERN, NORTH CAROLINA

Sunday, March 12, 2017

“Elections have consequences.”

By Jonathan Segal

That’s how in 2009 President Obama trumped negotiations at the White House with Republican leaders on his stimulus package.

That same message was brought home recently with very disturbing consequences.

After only 16 months on the job and an impressive record of accomplishments, Tryon Palace Director Lee Johnson was summarily fired. His firing was at the hand of newly-appointed (and not yet even confirmed) Secretary of the Department of Natural and Cultural Resources, Susi Hamilton.

Only three weeks into the job, never speaking with him personally and not visiting the Palace, she apparently concluded decided Mr. Johnson had to go. The firing was done after “careful thought and consideration” according to the news release issued from the Department’s PR office.

Yeah, right.

But before getting into the firing, let’s look at some of his accomplishments.

During Mr. Johnson’s tenure, the Palace has been noticeably more active with community endeavors and increased volunteer assistance. Two new community outreach programs were successfully implemented.

A camp-out filled the Palace grounds with 350 local children and their families. And, on July 4, the History Museum (which is part of the Palace infrastructure) opened its doors for an Independence Day event that drew some 700 guests.

Voluntarism also increased as more local residents became involved with the Palace resulting in an increase of 2,000 annual volunteer hours over the previous year.

On another front, Mr. Johnson and his staff have been working with the Coastal Carolina Classroom Foundation on plans to build docks to berth the historic, North Carolina skipjack, Ada Mae. The idea was to broaden the educational offerings of the Palace with programs that would illustrate the importance of the local rivers to the history and development of New Bern.

Improvements of the grounds were readily observable under Mr. Johnson's watch. The grounds of the History Center had become an embarrassment to the Center and also to the generous donors who helped fund the grounds, Mr. and Mrs. Champ Mitchell. Mr. Johnson saw the problem and initiated a long-overdue grounds maintenance program while securing additional funding from the Mitchell family to make improvements.

For the first time, the Palace participated in the History Society's Ghost Walk activities. Mr. Johnson corralled a female equestrian to play the role of the "Headless Horseman," which proved to be a crowd favorite.

The Candle Light program had long been a staple for the Palace during the holiday season. This year, to broaden the appeal of the program, Mr. Johnson added "The Tavern" and served 800 to 1,000 patrons in a historically-themed tent on the grounds.

According to The Sun-Journal, Mr. Johnson took the Director position during a time the Palace had felt the knife of legislative budgeting. State funding for the Palace, New Bern's number one tourist attraction, had been reduced 25 percent during the previous five years.

Katherine Haroldson, Treasurer of the Tryon Palace Commission and also a member of the Palace Foundation, said Mr. Johnson's ideas were great ways to raise local revenue. "Everyone, certainly those on the commission, was optimistic about the ideas he is bringing and thinking they are good for tourism and Tryon Palace."

The point of all this is that Mr. Johnson seemed to be doing a fine job as Director.

If he was doing a good job, why was he fired? He was fired for one of two reasons, perhaps both.

Reason number one is that he is Republican, not one who has been active the state politics for many years, but a Republican, nevertheless. As Republican he was not a member "right" party, meaning the party that just prevailed in the gubernatorial race. While it makes little sense, the directors of the state's attractions such as the aquariums, the zoo, the symphony and Tryon Palace are "at will" employees serving at the will of the governor and his staff.

The new, Democrat governor appointed a new, politically-active Democrat Secretary of the Department of Natural and Cultural Resources. Soon thereafter, Johnson was summarily shown the door.

The other explanation, and one embraced by some members of the Tryon Palace Commission and its Foundation is that the firing was the back office work of Johnson's boss in Raleigh, Dr. Kevin Cherry, and the Deputy Secretary of Archives, History and Parks.

The sense of many commissioners is that when Mr. Johnson streamlined and reorganized the staff, some of the employees who were terminated or transferred sought the sympathetic ear of Dr. Cherry, who was not particularly enamored with Johnson's management style to begin with.

They postulate that Dr. Cherry seized the opportunity of a new Department Secretary, one with little knowledge of what is really happening at the Palace to recommend that Johnson be fired. And she did it.

"I don't think Governor Cooper himself had anything to do with the firing," said Nelson McDaniel, President of the Palace Foundation. "It was done at lower levels."

Members of the Palace Commission and Foundation were particularly put out that Secretary Hamilton made no effort to seek their input or counsel on whether Mr. Johnson was doing a good job. They learned about his firing the day it happened.

According to Mr. McDaniel, Mr. Johnson never received a performance appraisal from Dr. Cherry during his 16 months as director even though members of the Commission and Foundation had asked that one be done.

At a special after the dismissal, members of the Commissions' Executive Committee pressed the Secretary's office for reasons Mr. Johnson was fired only to get a response that he was fired for his "at will" status (in other words, not a Democrat) rather than for cause.

In the end, whether Mr. Johnson was fired for political reason or not getting along with his boss, he's gone and it is likely no replacement will be named for five to six months.

In the meantime, Dr. Cherry will serve as interim director from his office in Raleigh. To be sure, that's not a good situation.

To make matters even worse, the termination of the Director was done in the midst of a multi-million dollar capital campaign to make major improvements in the Palace and grounds. Mr. Johnson and some key Foundation and Commission members had already traveled around the state pitching the project and getting funding commitments. Some \$300,000 in commitments was in hand when he was shown the door.

If the Secretary was aware of the capital campaign and the ramifications of Mr. Johnson's termination, it was not apparent in her actions. Already some donors have withdrawn their commitments and others may be doing the same.

Mr. McDaniel, wrote a note to the Foundation members last week saying: "Obviously, no further solicitation is appropriate until the status of these projects is clarified. We are receiving many questions from donors and prospects and can only answer these questions once we have clarification."

He added, "There was no consultation with the Foundation or the leadership prior to Mr. Johnson's termination."

Mr. McDaniel has said funds already been collected or committed would be returned to the donors if the commission did not get a commitment in writing from the state that the capital projects would go forward exactly as they were planned. "Our integrity is at stake."

That Mr. Johnson was treated poorly is of no doubt. He sold his residence and quit his job in Washington to move to New Bern and bring a professional management approach to Tryon Palace. He did a good job, had the support of the Commission, the Foundation and the community – and one day the Secretary’s henchmen came to his office and told him to turn in his keys and vacate the premises by 5 p.m. that day.

That’s no way to treat an employee, even one who is Republican.

The whole situation stinks. Mr. Johnson and his wife will probably leave New Bern and move on with their lives.

But what about the future of Palace and the History Center? What about the capital campaign? What about the feelings of betrayal all the people who served without pay on the Foundation and the Commission?

Governor Cooper and his Secretary should heed the wishes of the Commission and Foundation and rethink their decision. While the new Secretary had the “right” to fire Mr. Johnson, that doesn’t make it “right.”

Absent that, serious consideration should be given to a legislative solution that would allow the directors of the Palace, the Aquarium, the Zoo, the Symphony, and other such institutions to be headed by professionals who are not beholden to any particular party.

Why should it matter whether they are Republicans or Democrats so long as they do a good job? It shouldn’t matter. But apparently it does.

Dismissals should be done for cause, not for political reasons.

Yes, elections have consequences. But those consequences should not be detrimental to the state’s historic assets or the professionals managing them.

Jonathan Segal is a former publisher of the Sun Journal. His wife is a member of the Tryon Palace Foundation and he is a member of the NC Aquarium Foundation.

ND: 4842-5004-4229, v. 1



North Carolina General Assembly
Senate Chamber
State Legislative Building
Raleigh, NC 27601-2808

SENATOR BILL COOK

1ST DISTRICT—BEAUFORT, CAMDEN, CURRITUCK, DARE, GATES,
HYDE, PASQUOTANK & PERQUIMANS

OFFICE: 16 W. JONES STREET, ROOM 1026
RALEIGH, NC 27601-2808

PHONE: (919) 715-8293

FAX: (919) 754-3296

EMAIL: bill.cook@ncleg.net

COMMITTEES:

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES—
CHAIRMAN

APPROPRIATIONS ON NATURAL & ECONOMIC
RESOURCES—CHAIRMAN

AGRICULTURE & FORESTRY AWARENESS COMMISSION—
CHAIRMAN

COMMERCE AND INSURANCE

EDUCATION/HIGHER EDUCATION

STATE & LOCAL GOVERNMENT

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON AGRICULTURE
& NATURAL AND ECONOMIC RESOURCES

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON EDUCATION

March 23, 2017

The Honorable Bill Rabon
16 W. Jones Street, Room 2010
Raleigh, NC 27601-2808

The Honorable Tommy Tucker
300 N. Salisbury Street, Room 300-A
Raleigh, NC 27603-5925

Dear Sen. Rabon and Sen. Tucker:

This letter is to advise the Committee on Nominations that the Committee on Agriculture/Environment/Natural Resources voted to recommend to the Committee on Nominations that Susan Hamilton be confirmed to the office of Secretary of the N.C. Department of Natural and Cultural Resources and this recommendation be communicated to the Committee on Nominations herewith.

Sincerely,

Bill Cook
N.C. Senate District 1





VISITOR REGISTRATION SHEET

Cook

Senate Agriculture / Environment / Natural Resources Committee

Thursday, March 23, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Justin Clayton	Governor
Stephen Kumba	KMA
May Marion Abbell	SELC
Brooks Rainey Pearson	SELC
Steve McIntyre	The Policy Group
Mark Lanier	UNCW
Jaz Turner	Data Group



VISITOR REGISTRATION SHEET

Senate Agriculture / Environment / Natural Resources Committee

Thursday, March 23, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Steve Metcalf	The Policy Group
Mike Murphy	NC State Parks
Don Williams	TCF
NATE MCGAHA	CAROLINA BALLET - ARTS NC
Jodee Wimmerichter	American Dance Festival / Arts NC
Karen Wells	Arts NC
Gilda McDaniel	Arts NC
Pat Hall	NCMEA / Arts NC
Wayne Martin	NC Arts Council / DNCR
Elizabeth Biser	Brooks Pierce
Michelle Wells	NC Recreation & Park Assn
Jim Richardson	Friends of State Parks
Michael Lowden	Artsplusnc
William Lewis	Pine Cone Piedmont Council of Traditional Music
Jordan Forrest	NCR
DAVID PEARSON	FRIENDS OF STATE PARKS
Sarah McQuillan	KOANC



VISITOR REGISTRATION SHEET

Senate Agriculture / Environment / Natural Resources Committee

Thursday, March 23, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
John Merritt	DRAM TREE CONSULTING
John Harlan	MFS
Mary Shuping	NCCCS
Lex Jones	DNCR
Ben Popkin	DHHS
Quinn	PALE E
Jo Ann Cooper	Connect C
Elizabeth Cruchip	ORPDHCCd2
ALAN LINGMAN	ORPDHCCd2



VISITOR REGISTRATION SHEET

Senate Agriculture / Environment / Natural Resources Committee

Thursday, March 23, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Staci Meyer	DNCR
Will Morgan	MFS
Bill Galt	in of KNC
J C O'Connell	CS
Preston Brown	NCRWA
W. Darlene Lipper	PPAB
Terry Schill	NC Fish and Wildlife Assoc
Cassie Garvin	Siema club
Jon Lanier	NCDA & CS
Seth Picher	NC REALTORS
John C.	NCC
Jason Soper	NCC
John	SD
Kim Sionkus	NCKLA
Rhaegan Jackson	Focus Carolina
Cady Thomas	11



Principal Clerk _____
Reading Clerk _____

SENATE
NOTICE OF COMMITTEE MEETING
AND
BILL SPONSOR NOTICE

The **Senate Committee on Agriculture/Environment/Natural Resources** will meet at the following time:

DAY	DATE	TIME	ROOM
Thursday	April 6, 2017	10:00 AM	544 LOB

Consider recommendation on confirmation of Michael Regan as Secretary of Department of Environmental Quality.

Senator Norman Sanderson will serve as chair.

Senator Bill Cook, Co-Chair
Senator Norman W. Sanderson, Co-Chair
Senator Andy Wells, Co-Chair



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, April 6, 2017, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

Other Business

Adjournment



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, April 6, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on April 6, 2017 in Room 544 of the Legislative Office Building. 14 members were present.

Senator Norman W. Sanderson, Chair, presided.

The chair gave instructions to the committee and public guests pertaining to the procedures that will be followed during this Senate confirmation hearing for the nominee for Secretary of the Department of Environmental Quality, Michael Regan.

The chair recognized court reporter Robbie Worley who administered the oath to Mr. Regan. The chair then instructed the committee to pose all questions to the chair who will then instruct Mr. Regan to respond.

The chair recognized Sergeant at Arms John Enloe, Becky Myrick, Linda Matthews, and Steve McKaig. The chair also recognized pages Macie Hasty from Roanoke Rapids, NC sponsored by Senator Bryant, Caroline Harris from Fountain, NC sponsored by Senator Pate, Kimberly Sconiers from Fuquay-Varina, NC sponsored by Senator Blue, and Briana Basic from Rockingham, NC sponsored by Senator McInnis.

The chair then welcomed Mr. Regan and thanked him for his appearance and allowed him to make his opening comments.

The chair called on committee members for any questions. Mr. Regan responded to questions from Senators Cook, P. Newton, A. Bryant, Wells, Smith-Ingram, B. Jackson, Chaudhuri, Waddell, Rabin, Alexander, and Sanderson.

The chair requested a motion and Senator Bill Cook moved that the committee recommend to the Senate Committee on Nominations that Mr. Michael Regan be approved as Secretary of the North Carolina Department of Environmental Quality. The motion passed unanimously.

There being no further business, the meeting adjourned at 11:02 am.



Senator Norman W. Sanderson, Chair
Presiding



Kathy Voss, Committee Clerk



North Carolina General Assembly
Senate Committee on
Agriculture/Environment/Natural
Resources

STATE OF NORTH CAROLINA
County of Wake

In the General Assembly of
North Carolina

SUBPOENA

TO: Secretary Michael S. Regan
North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, North Carolina 27603
(919) 707-8600

GREETING:

YOU ARE HEREBY COMMANDED to appear before the Senate Committee on Agriculture/Environment/Natural Resources (hereinafter "Committee") in Raleigh, North Carolina, on the 30th day of March, 2017, at 10:00 o'clock a.m., in Room 544, of the Legislative Office Building, 300 North Salisbury Street, Raleigh, NC 27603, and as continued from time to time, to testify on matters before the Committee concerning your qualifications, potential conflicts of interest, and willingness to follow the law in your capacity as Secretary of the Department of Environmental Quality, as further detailed in the attached letter from the Committee Chairs dated, March 9, 2017.

This subpoena is issued upon authorization of:

Senator Phil Berger
President Pro Tempore of the Senate

Issued this 9th day of March, 2017, by majority vote of the Committee:

Senator Bill Cook
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1026
Raleigh, NC 27601-2808

Senator Norman W. Sanderson
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1127
Raleigh, North Carolina 27601-2808

Senator Andy Wells
Co-Chairman, Senate Committee on
Agriculture/Environment/Natural
Resources
16 West Jones Street, Room 1028
Raleigh, NC 27601-2808



OFFICER'S RETURN

I certify that the above subpoena was received on the _____ day of _____, 20____, and that on the _____ day of _____, 20____, it was served on _____ in the following manner: _____.

G.S. 120-19.2; G.S. 1A-1, Rule 45



Rule 45. Subpoena.

...

(c) Protection of Persons Subject to Subpoena. –

- (1) Avoid undue burden or expense. – A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on a person subject to the subpoena. The court shall enforce this subdivision and impose upon the party or attorney in violation of this requirement an appropriate sanction that may include compensating the person unduly burdened for lost earnings and for reasonable attorney's fees.
- (2) For production of public records or hospital medical records. – Where the subpoena commands any custodian of public records or any custodian of hospital medical records, as defined in G.S. 8-44.1, to appear for the sole purpose of producing certain records in the custodian's custody, the custodian subpoenaed may, in lieu of personal appearance, tender to the court in which the action is pending by registered or certified mail or by personal delivery, on or before the time specified in the subpoena, certified copies of the records requested together with a copy of the subpoena and an affidavit by the custodian testifying that the copies are true and correct copies and that the records were made and kept in the regular course of business, or if no such records are in the custodian's custody, an affidavit to that effect. When the copies of records are personally delivered under this subdivision, a receipt shall be obtained from the person receiving the records. Any original or certified copy of records or an affidavit delivered according to the provisions of this subdivision, unless otherwise objectionable, shall be admissible in any action or proceeding without further certification or authentication. Copies of hospital medical records tendered under this subdivision shall not be open to inspection or copied by any person, except to the parties to the case or proceedings and their attorneys in depositions, until ordered published by the judge at the time of the hearing or trial. Nothing contained herein shall be construed to waive the physician-patient privilege or to require any privileged communication under law to be disclosed.
- (3) Written objection to subpoenas. – Subject to subsection (d) of this rule, a person commanded to appear at a deposition or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or tangible things may, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, serve upon the party or the attorney designated in the subpoena written objection to the subpoena, setting forth the specific grounds for the objection. The written objection shall comply with the requirements of Rule 11. Each of the following grounds may be sufficient for objecting to a subpoena:
 - a. The subpoena fails to allow reasonable time for compliance.
 - b. The subpoena requires disclosure of privileged or other protected matter and no exception or waiver applies to the privilege or protection.
 - c. The subpoena subjects a person to an undue burden or expense.
 - d. The subpoena is otherwise unreasonable or oppressive.
 - e. The subpoena is procedurally defective.
- (4) Order of court required to override objection. – If objection is made under subdivision (3) of this subsection, the party serving the subpoena shall not be entitled to compel the subpoenaed person's appearance at a deposition or to inspect and copy materials to which an objection has been made except pursuant to an order of the court. If objection is made, the party serving the subpoena may, upon notice to the subpoenaed person, move at any time for an order to compel the subpoenaed person's appearance at the deposition or the production of the materials designated in the subpoena. The motion shall be filed in the court in the county in which the deposition or production of materials is to occur.
- (5) Motion to quash or modify subpoena. – A person commanded to appear at a trial, hearing, deposition, or to produce and permit the inspection and copying of records, books, papers, documents, electronically stored information, or other tangible things, within 10 days after service of the subpoena or before the time specified for compliance if the time is less than 10 days after service, may file a motion to quash or modify the subpoena. The court shall quash or modify the subpoena if the subpoenaed person demonstrates the existence of any of the reasons set forth in



subdivision (3) of this subsection. The motion shall be filed in the court in the county in which the trial, hearing, deposition, or production of materials is to occur.

- (6) Order to compel; expenses to comply with subpoena. – When a court enters an order compelling a deposition or the production of records, books, papers, documents, electronically stored information, or other tangible things, the order shall protect any person who is not a party or an agent of a party from significant expense resulting from complying with the subpoena. The court may order that the person to whom the subpoena is addressed will be reasonably compensated for the cost of producing the records, books, papers, documents, electronically stored information, or tangible things specified in the subpoena.

- (7) Trade secrets; confidential information. – When a subpoena requires disclosure of a trade secret or other confidential research, development, or commercial information, a court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or when the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot otherwise be met without undue hardship, the court may order a person to make an appearance or produce the materials only on specified conditions stated in the order.

- (8) Order to quash; expenses. – When a court enters an order quashing or modifying the subpoena, the court may order the party on whose behalf the subpoena is issued to pay all or part of the subpoenaed person's reasonable expenses including attorney's fees.

(d) Duties in Responding to Subpoenas. –

- (1) Form of response. – A person responding to a subpoena to produce records, books, documents, electronically stored information, or tangible things shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

- (2) Form of producing electronically stored information not specified. – If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it ordinarily is maintained or in a reasonably useable form or forms.

- (3) Electronically stored information in only one form. – The person responding need not produce the same electronically stored information in more than one form.

- (4) Inaccessible electronically stored information. – The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, after considering the limitations of Rule 26(b)(1a). The court may specify conditions for discovery, including requiring the party that seeks discovery from a nonparty to bear the costs of locating, preserving, collecting, and producing the electronically stored information involved.

- (5) Specificity of objection. – When information subject to a subpoena is withheld on the objection that it is subject to protection as trial preparation materials, or that it is otherwise privileged, the objection shall be made with specificity and shall be supported by a description of the nature of the communications, records, books, papers, documents, electronically stored information, or other tangible things not produced, sufficient for the requesting party to contest the objection.

...





NORTH CAROLINA GENERAL ASSEMBLY

NORTH CAROLINA SENATE

March 9, 2017

VIA HAND DELIVERY

Secretary Michael S. Regan
North Carolina Department of Environmental Quality
217 West Jones Street
Raleigh, North Carolina 27603

Dear Mr. Regan:

Congratulations on your nomination by Governor Cooper to serve as Secretary of the Department of Environmental Quality.

Your position is one that requires the advice and consent of the North Carolina Senate under N.C. Gen. Stat. § 143B-9 and Article III, Section 5(8) of the North Carolina Constitution. Additionally, because you were sworn in an acting capacity as Secretary of the Department, you are subject to the reporting and appearance obligations set out in Articles 5 and 5A of Chapter 120 of the General Statutes.

You have been asked to appear before the Senate Committee on Agriculture/Environment/Natural Resources on March 30, 2017, at 10:00 a.m. The point of the meeting is to allow the Committee to make an informed recommendation regarding your nomination. While we do not expect the meeting to be adversarial, you will be asked questions relating to your experience, potential conflicts of interest and your willingness to follow the law. While each member has discretion in selecting the questions he or she asks, we are providing to you a more detailed idea of what we expect will be potential areas of discussion.

To that end, enclosed is a rubric entitled "Potential Areas of Inquiry for Gubernatorial Nominees." You are not required to answer these questions prior to the meeting. However, we encourage you to give the potential questions thoughtful consideration and be prepared to discuss your answers with the committee's members. Of course, you are free to provide written responses, which may streamline or simplify the questions you receive during the meeting. Note



separately that the Committee will need a copy of your current Statement of Economic Interest prior to the hearing.

We look forward to seeing you on March 30th. If you have further questions about the process, please do not hesitate to contact any of us.

Sincerely,

Sen. Bill Cook, Co-Chair Sen. Norman W. Sanderson, Co-Chair

Sen. Andy Wells, Co-Chair

cc: Gov. Roy Cooper

Enclosure



POTENTIAL AREAS OF INQUIRY FOR GUBERNATORIAL NOMINEES

**Unless specified otherwise, include responsive information for the past 15 years.*

QUALIFICATIONS

Education: Describe your undergraduate and graduate education history, including the institution(s), dates attended, degrees received and dates of degrees.

Honors and Awards: Detail all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and other special recognition you have received for outstanding service or achievement.

Employment History: Detail all positions held since college, including the title and description of each position, name of employer, location of work, and inclusive dates of employment.

Government Experience: Describe any experience in or direct association with federal, state, or local governments, including any advisory, consultative, board, honorary or other part time service or positions.

Membership, Affiliations and Activities: Detail all memberships and offices held in and services rendered to, professional, fraternal, business, scholarly, civic, charitable, political parties, election committees or other organizations. Include names of the organizations, as well as the office(s) and dates held.

Published Writings; Speeches: List/describe all books, articles, reports, seminar or other educational materials, editorials, speeches, prepared remarks or other published materials you have written, co-written or recorded, including those published only on the Internet. Please be prepared to provide a copy of documents that are not independently accessible. If copies are unavailable to you, list the title, publisher, date of publication, and a description of the published work. Include any videos that are responsive.

Teaching: Detail all courses you have taught. For each course, provide the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught.



POTENTIAL CONFLICTS OF INTERESTS

Employment Relationships, Outside Commitments During Service: Explain whether:

- You plan to sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.
- As far as can be foreseen, you have any plans after completing this government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.
- Anyone has made you a commitment to a job after you leave government.
- You expect to serve the full term for which you have been appointed.
- You have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service.

Impact of Prior Employment/Activities:

- Detail all previous job responsibilities for employers included in Section IV, "Employment History," that may stand in conflict to current or proposed rules, regulations, laws, or other policies of the state of North Carolina for which, if confirmed, you would be responsible for regulating.
- If you have engaged in any activities (including but not limited to consulting, advocacy, charitable, educational, electioneering, state or federal lobbying, goodwill lobbying, political, or otherwise) that relate, affect, or impact any of the areas that you would be responsible for regulating, if confirmed, provide all activities, time expended, and if financial or other benefits or compensation were received.
- Describe any business relationships, contracts, dealings or financial transactions (other than paying taxes) which you have had with the state of North Carolina, whether for yourself, on behalf of a client, or acting as an agent. Explain whether any of these relationships, dealings or transactions may, in any way, constitute or result in a possible conflict of interest with the position to which you have been nominated.
- For each area of potential or actual conflict identified, if any, detail how it will be remedied to fulfill your duty to faithfully discharge your duties of the office in which you have been nominated.

Political Contributions: List the political contributions over \$50.00 that you have made to an individual, campaign organization, political party, political action committee or similar entity during the last 10 years and identify specific amounts, dates, and names of recipients.



Legal Actions:

- Provide the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a federal, state, or local agency in which you were the subject of the inquiry or investigation.
- Provide the full details of any proceeding, inquiry or investigation by any professional association, including any professional association in which you were the subject of the proceeding, inquiry or investigation.
- Have you or any business or organization of which you are or were an officer or board member, ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.





STATE ETHICS COMMISSION

1324 MAIL SERVICE CENTER
RALEIGH, NC 27699-1324
WWW.ETHICSCOMMISSION.NC.GOV

February 24, 2017
REVISED

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

via Email

Re: Evaluation of Statement of Economic Interest Filed By Mr. Michael S. Regan
Department of Environmental Quality –Secretary

Dear Governor Cooper:

Our office is in receipt of Mr. Michael S. Regan's 2017 **Statement of Economic Interest and supplement** as Secretary of the North Carolina Department of Environmental Quality ("the Department"). We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest or the potential for a conflict of interest.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mr. Regan is your appointee as Secretary of the North Carolina Department of Environmental Quality. He disclosed that he was the owner of M. Regan & Associates, LLC, a firm that provides environmental consulting. However, Mr. Regan provided information indicating that he dissolved his company on February 23, 2017.

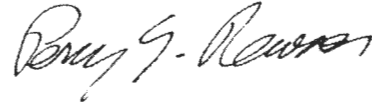
In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

The Honorable Roy A. Cooper, III
February 24, 2017
Page 2 of 2

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,

A handwritten signature in black ink, appearing to read "Perry Y. Newson". The signature is fluid and cursive, with the first name "Perry" and last name "Newson" clearly distinguishable.

Perry Y. Newson
Executive Director

cc: Mr. Michael S. Regan
Mr. Greg McLeod, Ethics Liaison
Mr. William F. Lane, General Counsel

Attachment: Ethics Education Flyer



NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST

919-814-3600

www.ethicscommission.nc.gov

FOR ETHICS COMMISSION USE ONLY
Date Received:

2017 JUN 11 11:12:54

**THIS ENTIRE FORM MUST BE COMPLETED TO FULFILL
YOUR SEI FILING OBLIGATION**

Reh Checked for completion
____ Scanned ____ Date
Incomplete ?s ____
Supp. Sent Date ____ By ____
Supp. Received Date ____
Entered in database 1/24 By Reh

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Mr	Michael	Stanley	Regan	
CURRENT EMPLOYER			JOB TITLE	
Owner, M. Regan & Associates			Principal	
NATURE OR TYPE OF BUSINESS				
Environmental Consulting				
REASON FOR FILING (COMPLETE ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify Agency)			BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)	
Secy, Dept of Environmental Quality				
JUDICIAL OFFICER (Specify Office)			LEGISLATOR (Specify House or Senate)	
A. Do other immediate family members reside in your household?				
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				
When used throughout this form, the term Immediate family includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) who reside in your household.				
List the full name of all adults and emancipated minors in your household. A minor is a child under 18 years old. Minors are emancipated by marriage, enlistment in the US military, or court order for emancipation.				
FULL NAME OF ADULTS & EMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
Melina T Regan	wife	Deutsche Bank	Asst Vice President	Banking



B. List **ONLY** the initials of all unemancipated minors in your household below. A minor is a child under 18 years old.

Note: You must list the full name of each minor child on the Confidential Form available at the end of this document.

INITIALS FOR UNEMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
MSR	Son	NA	NA	NA

PROPERTY INTERESTS

1. As of December 31, 2016, did you, your spouse, or members of your immediate family:

A. Have an ownership interest in North Carolina real estate (including your residence) with a market value of \$10,000 or more?

☐ Yes ☒ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County

B. Lease or rent real estate or personal property to or from the State of North Carolina with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2015 or 2016, did you, your spouse, or members of your immediate family sell to or buy from the State of North Carolina personal property with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Purchaser	Name of Seller	Type of Property



FINANCIAL INTERESTS

3. As of December 31, 2016, did you, your spouse, or members of your immediate family own any of the following financial interests valued at \$10,000 or more? **LIST EACH COMPANY INDIVIDUALLY.**

A. Stock in a publicly owned company?

☐ Yes ☒ No

► Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if: (i) the fund is publicly traded or its assets are widely diversified; and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)

B. Stock Options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations)?

☒ Yes ☐ No - If "No," proceed to question 4.

Owner of Interest	Name of Company or Business Entity
Michael S Regan	M. Regan and Associates LLC

C (1). For each non-publicly owned company or business entity (the "primary company") identified in question 3.C above, please list the names of *any other companies or business entities* in which the primary company owns securities or equity interests valued at over \$10,000, *if known*.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
<input checked="" type="checkbox"/> None or Not Known	



C (2). If you know that any company or business entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts with the State of North Carolina, or is regulated by the State, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input checked="" type="checkbox"/> None or Not Known	

4. As of December 31, 2016, were you, your spouse, or members of your immediate family the beneficiaries of a vested trust with a value of \$10,000 or more that was created, established, or controlled by you?

Do not list assets held in blind trusts. See 2017 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2016, did you, your spouse, or members of your immediate family have liabilities of \$10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☒ Yes ☐ No

Name of Debtor (You, Spouse, Immediate Family Member)	Type of Creditor (Commercial Bank, Credit Union, Individual, etc.)
Melvina T Regan	Commercial Bank
Michael S Regan	Commercial Bank

6. List each source of income (not specific amounts) of more than \$5,000 received by you, your spouse, or members of your immediate family during 2016. Include salary, wages, state/local government retirement, professional fees, honoraria, interest, dividends, rental income, business income, and other types of income required to be reported on your State and federal tax returns.

Do not include income received from the following sources:

- ▶ Capital gains
- ▶ Federal government retirement
- ▶ Military retirement
- ▶ Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
<input type="checkbox"/> I had no reportable income over \$5,000 in 2016.			
Michael S Regan	Env. Defense Fund	Env. Non Profit	Salary
Melvina T Regan	Deutsche Bank	Banking Industry	Salary



PROFESSIONAL AND CIVIC RELATIONSHIPS

7(a). During 2016, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

☒ Yes ☐ No - If "No," proceed to question 8.

► Do not list State boards or entities, or entities created by a political subdivision of the State.

► Do not list organizations of which you are a mere member.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization
Michael S Regan	Associate VP	Environmental Defense Fund	Advocacy

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, please provide a brief description of the nature of that business, if known or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business or State Funding
<input checked="" type="checkbox"/> None or Not Known	

8. During 2016, were you, your spouse, or members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

msr ☒ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to those offices.

► Do not list organizations of which you are only a member (not serving in a leadership role).

Name of Person	Name of Society, Organization or Advocacy Group	Leadership Position (Director, Officer, Board Member)
Michael S Regan	Environmental Defense Fund	Associate VP / Director



9(a). List the name of each company or business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2016.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input checked="" type="checkbox"/> No Business Associations			

9(b). If you know that any company or business entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2016, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input checked="" type="checkbox"/> Not applicable (No entities listed on #9a)	

10. Are you a practicing attorney?

☐ Yes ☒ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than \$10,000 during 2016.

<input type="checkbox"/> Administrative	<input type="checkbox"/> Admiralty	<input type="checkbox"/> Corporate	<input type="checkbox"/> Criminal
<input type="checkbox"/> Decedent's Estates	<input type="checkbox"/> Environmental	<input type="checkbox"/> Insurance	<input type="checkbox"/> Labor
<input type="checkbox"/> Local Government	<input type="checkbox"/> Real Property	<input type="checkbox"/> Securities	<input type="checkbox"/> Tax
<input type="checkbox"/> Tort litigation (including negligence)	<input type="checkbox"/> Utilities Regulation	<input type="checkbox"/> Other category not listed.	

11. During 2016, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over \$10,000?

☐ Yes ☒ No

Type of Business	Nature of Services Rendered



12. Are you or your employer, your spouse or members of your immediate family, or their employer currently:

- Licensed by the State board or employing entity with which you are or will be associated **or**
- Regulated by the State board or employing entity with which you are or will be associated **or**
- Have a business relationship with the State board or employing entity with which you are or will be associated?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer ("judicial officer" is defined in the SEI Helpful Tips) or you are filing as an appointee to those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)

13. Are you, your spouse or a member of your immediate family currently registered as a lobbyist or lobbyist principal, or were you registered as such within the 12 months preceding your filing of this form?

☐ Yes ☒ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration

OTHER DISCLOSURES

14. During any calendar quarter in 2016 (but only the time period after you were appointed, employed or filed or were nominated as a candidate), did you

- receive any "gift(s)" exceeding \$200 per quarter from a person or group of persons acting together, **and**
- when both you and those person(s) were outside North Carolina at the time you accepted the gift(s), **and**
- the gift(s) were given under circumstances that would lead a reasonable person to conclude that they were given for lobbying?

☐ Yes ☒ No

► Do not report gifts given by members of your extended family.

► Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value



15. During 2016 (but only the time period after you were appointed, employed, or filed or were nominated as a candidate) did you

- accept a "scholarship" exceeding \$200 from a person or group of persons acting together **and**
- those person(s) were outside North Carolina **and**
- the scholarship was related to your public position? A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☒ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."
- ▶ Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member or participant or an affiliate of that organization.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

16. Were you appointed or are you being considered for an appointment to a covered board by the **Governor** or another Council of State member?

Council of State members are:

- ▶ Governor
- ▶ Lt. Governor
- ▶ Secretary of State
- ▶ State Auditor
- ▶ State Treasurer
- ▶ Superintendent of Public Instruction
- ▶ Attorney General
- ▶ Commissioner of Agriculture
- ▶ Commissioner of Labor
- ▶ Commissioner of Insurance

☐ Yes ☒ No

If "Yes", list all contributions you (NOT immediate family members) made during 2016 with a cumulative total of more than \$1,000 to the Governor or other Council of State member who appointed you.

▶ Contributions are defined in N.C.G.S. 163-278.6(6) and include, but are not limited to, "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
<input type="checkbox"/> No contribution(s) with a cumulative total of more than \$1,000		



17. Are you an appointee or prospective appointee to:

- a. the head of a principal state department (e.g. cabinet secretary) appointed by the Governor; or
- b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge; or
- c. a member of any of the following boards:
 - ABC Commission
 - Coastal Resources Commission
 - State Board of Education
 - State Board of Elections
 - Division of Employment Security
 - Environmental Management Commission
 - Industrial Commission
 - Human Resources Commission
 - Rules Review Commission
 - Board of Transportation
 - UNC Board of Governors
 - Utilities Commission
 - Wildlife Resources Commission

☒ Yes ☐ No

If "No," proceed to question 18.

- d. If so, were you appointed or are you being considered for appointment to that public position by a Council of State member? Council of State members are listed in question 16.

☒ Yes ☐ No

If "No," proceed to question 18.

- e. If so, you must indicate whether during 2016 you (not immediate family members) engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you to your public position:

- i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee? Contributions are defined in question 16.

☐ Yes ☒ No

- ii. Hosted a fundraiser at your residence or place of business?

☐ Yes ☒ No

- iii. Volunteered for campaign-related activities, which include, but are not limited to, phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?

☐ Yes ☒ No

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon of innocence; or (ii) an order of expungement regarding that conviction?

☐ Yes ☒ No

Offense

Date of Conviction

County of Conviction

State of Conviction

19. Are you aware of any other information that *you believe* may assist the State Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide such information below.



AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

☒ I Agree

Signature

Printed Name

Date

Submit **SIGNED, ORIGINAL** documents only.

Do not fax or email this form.



April 6, 2017

The Honorable Bill Rabon
W. Jones Street, Room 2010
Raleigh, NC 27601-2808

The Honorable Tommy Tucker
300 N. Salisbury Street, Room 300-A
Raleigh, NC 27603-5925

Dear Sen. Rabon and Sen. Tucker:

This letter is to advise the Committee on Nominations that the Committee on Agriculture/Environment/Natural Resources voted to recommend to the Committee on Nominations that Michael S. Regan be confirmed to the office of Secretary of the N.C. Department of Environmental Quality and this recommendation be communicated to the Committee on Nominations herewith.

Sincerely,

Signed

Norman W. Sanderson
N.C. Senate District 2

*Sent by email on 4 April 6, 2017
orig. delivered by hand on
4/6/17 Katy Joss*





Senate Committee

On

**Agriculture, Natural and Economic
Resources**

April 6, 2017

Room 544, LOB

10:00 AM

Senate Sergeant at Arms:

John Enloe

Linda Matthews

Steve McKaig

Becky Myrick



Senate Pages Attending

COMMITTEE: Agriculture ROOM: 544
DATE: 4-6 TIME: 10 ^{am}

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

	Page Name	Hometown	Sponsoring Senator
1.	Macie Hasty	Roanoke Rapids	Bryant
2.	^{HARRIS} Caroline Harris	Fountain	Pate
3.	Caroline Harris	Fountain	Pate
4.	Caroline Harris ^{SKON-YERS} Kimberly Sconiers	Fuquay Varina	Blue
5.	^{BAS-IC} Brianna Baysek	Rockingham	McInnis
6.			
7.			
8.			

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



VISITOR REGISTRATION SHEET

Senate Committee on Agriculture / Environmental / Natural Resources
Name of Committee

Date 4/6/17

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

<u>Don Gomer</u>	<u>3/A</u>
<u>Al Godwin</u>	<u>NCWRC</u>
<u>W. Gordon Capps</u>	<u>PPAD</u>
<u>Mark Lanier</u>	<u>UNCW</u>
<u>Jason Soper</u>	<u>NC Chamber</u>
<u>David McGowan</u>	<u>NCPC</u>
<u>Jerry Schill</u>	<u>NC Fisheries Assoc</u>
<u>James Normant</u>	<u>Ward and Smith</u>
<u>Alex Miller</u>	<u>AMGA</u>
<u>Julie Roberts</u>	<u>NC SFA</u>
<u>DAVID SNEED</u>	<u>CCA NC</u>



VISITOR REGISTRATION SHEET

Sen. Comm. on AG/Enviro/Natural Res

4/6/17

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Kathy Hicks

NCGA

David Kelly

EDF

Lex Jones

DNCR

Kathy Kingsturn

DP

Nancy Thompson

Weyerhaeuser

Jaz Tunell

Belle Eney



~~SPEAKER~~ REGISTRATION SHEET

Senate Committee on Ag/Environmental/Natural Resources

Name of Committee

Date 4/6/17

Visitors

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Molly Piggins	Sierra Club
Henry M Lancaster	LCA
Justin Clifton	Governor
Greg Andeck	Audubon
Veronica Butcher	Harmonizing Strategies
SUSANNAH TUTTLE	NC INTERFAITH POWER & LIGHT
Ryan Juskus	NC Interfaith Power + Light
Sharon Foster M.D.	
Carl Sigel	NC Interfaith Power + Light
Gary Smith	" " " " "
Justin Delaney	NeDOT
BRUCE THOMPSON	PARKOZ POC
Chuck Sathrum	Energy Consultant
Cassie Gavin	Sierra Club
Chris Broughton	MWC





4/4/17

~~GUEST SPEAKER REGISTRATION~~

Senators Visitors
Senate Comm Environment/Nat Res
(Committee Name)

~~SPEAKERS:~~ PLEASE SIGN IN BELOW

[illegible]



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, April 19, 2017, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 107	Streamline Dam Removal. (For Discussion Only)	Senator Wells Senator Gunn Senator B. Jackson
SJR 205	Resolution to Allow SAV Oyster Leasing.	Senator Cook Senator Sanderson
SB 217	Richmond/Right-of-Way Safety.	Senator McInnis
SB 244	Coastal Crescent Trail/State Parks System.	Senator B. Jackson
SR 370	South Atlantic Federal Fisheries Resources.	Senator Rabon
SB 196	Veterinary Practice Omnibus.	Senator Wade Senator Rabon Senator B. Jackson

Presentations

Other Business

Please feel free to take the enclosed materials, but leave your folders to be used at the next meeting.

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, April 19, 2017

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

FAVORABLE

SB 196	Veterinary Practice Omnibus. Draft Number: None Sequential Referral: Rules and Operations of the Senate Recommended Referral: None Long Title Amended: No
SJR 205	Resolution to Allow SAV Oyster Leasing. Draft Number: None Sequential Referral: Rules and Operations of the Senate Recommended Referral: None Long Title Amended: No
SB 217	Richmond/Right-of-Way Safety. Draft Number: None Sequential Referral: State and Local Government Recommended Referral: None Long Title Amended: No
SB 244	Coastal Crescent Trail/State Parks System. Draft Number: None Sequential Referral: Rules and Operations of the Senate Recommended Referral: None Long Title Amended: No
SR 370	South Atlantic Federal Fisheries Resources. Draft Number: None Sequential Referral: Rules and Operations of the Senate Recommended Referral: None Long Title Amended: No

TOTAL REPORTED: 5



* C M R 2 1 6 - V - 1 *

Wednesday, April 19, 2017

Senator Trudy Wade will handle SB 196

Senator Bill Cook will handle SJR 205

Senator Tom McInnis will handle SB 217

Senator Brent Jackson will handle SB 244

Senator Bill Rabon will handle SR 370



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, April 19, 2017 at 9:00 AM
Room 1027/1128 of the Legislative Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00AM on April 19, 2017 in Room 1027/1128 of the Legislative Building. 14 members were present.

Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Jim Hamilton, Frances Patterson and Steve McKaig.

SB 196 Veterinary Practice Omnibus (Senators Wade, Rabon, B. Jackson)

Senator Wade presented the bill. Senate Bill 196 would clarify that the practice of horseshoeing is not the practice of veterinary medicine and would require the Veterinary Division of Department of Agriculture and Consumer Services to study veterinary pharmaceutical compounding. Mark Papich from North Carolina State University of Veterinary Pharmacology and Gigi Davidson from North Carolina State University, Director of Clinical Pharmacy Services spoke in favor of the bill. Senator Wade responded to questions from Senator Cook. Senator Woodard moved for a favorable report. Motion passed.

SB 107 Streamline Dam Removal (Senators Wells, Gunn, B. Jackson)

Senator Cook presided while Senator Wells presented the bill. Senate Bill 107 would require an act to remove safety hazards and restore North Carolina's natural riverine resources by facilitating the removal of obsolete and unwanted dams. Tracy Davis from Department of Environmental Quality spoke in opposition of the bill. Peter Raabe from American Rivers spoke in favor of the bill. Senator Wells responded to questions from Senators Chaudhuri, Bryant, Waddell, McInnis, Wade, B. Jackson and Woodard. This was a PCS and was for discussion only.

SJR 205 Resolution to Allow SAV Oyster Leasing (Senators Cook, Sanderson)

Senator Cook presented the bill. Senate Joint Resolution 205 supports revisions to policies of the United States Army Corps of Engineers to allow shellfish cultivation and aquaculture activities in North Carolina waters containing submerged aquatic vegetation (SAV). There being no questions, Senator Woodard moved for a favorable report. Motion passed.

SB 217 Richmond/Right-of-Way Safety (Senator McInnis)

Senator McInnis presented the bill. Senate Bill 217 is a local bill that prohibits the discharge or attempted discharge of a firearm or bow and arrow from or across the roadway or right-of-way of any public road in Richmond County. There were no questions and Senator Alexander moved for a favorable report. Motion passed.



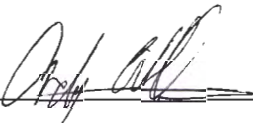
SB 370 South Atlantic Federal Fisheries Resources (Senators Rabon, Cook, Horner)

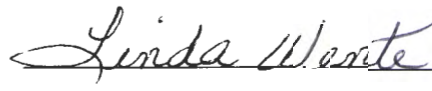
Senator Rabon presented the bill. Senate Bill 370 would oppose the privatization of South Atlantic Federal Fishery Resources through catch share management and efforts through exempted fishing permits or other means to conduct pilot catch share program or studies. Senator Rabon responded to questions from Senator B. Jackson and Senator Alexander. Jerry Schill from North Carolina Fisheries Association spoke in opposition of the bill. Senator Cook moved for a favorable report. Motion passed.

SB 244 Coastal Crescent Trail/State Parks System (Senator B. Jackson)

Senator B. Jackson presented the bill. Senate Bill 244 requires the Department of Natural and Cultural Resources to add the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail unit of the State Parks System. (As introduced, this bill was identical to H361, as introduced by Reps. Shepard, McElraft, White, Strickland, which is currently in Senate Rules and Operations of the Senate.) Since there were no questions, Senator Brock moved for a favorable report. Motion passed.

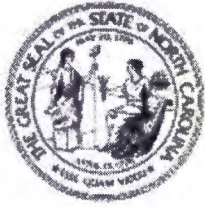
There being no further business, the meeting adjourned at 9:45 AM.



Senator Andy Wells, Chair Presiding

Linda Wentte, Committee Clerk





SENATE BILL 196: Veterinary Practice Omnibus.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 19, 2017
Introduced by:	Sens. Wade, Rabon, B. Jackson	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 196 would: (i) clarify that the practice of horseshoeing is not the practice of veterinary medicine; and (ii) require the Veterinary Division of the Department of Agriculture and Consumer Services to study veterinary pharmaceutical compounding.*

CURRENT LAW and BILL ANALYSIS:

Section 1

Current law prohibits persons from engaging in the practice of veterinary medicine without having first applied for and obtained a license for from the North Carolina Veterinary Medical Board.

The bill 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.

Section 2

Current law/Background: According to the American Veterinary Medical Association, "[c]ompounding, consistent with the Food and Drug Administration (FDA) Extra-Label Drug Use regulations, is the customized manipulation of an approved drug(s) by a veterinarian, or by a pharmacist upon the prescription of a veterinarian, to meet the needs of a particular patient. Common examples of appropriate compounding in veterinary practice are mixing two injectable drugs, preparing an oral paste or suspension from crushed tablets or adding flavoring to a drug. Compounded preparations are required to be prepared from FDA-approved animal or human drugs. The FDA and federal courts have held that federal drug laws prohibit compounding from bulk chemicals or raw pharmaceutical ingredients as such compounds are unapproved new animal drugs."¹

¹ American Veterinary Medical Association policy on Veterinary Compounding, see <https://www.avma.org/KB/Policies/Pages/Compounding.aspx>

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 196

Page 2

The bill would require the Veterinary Division (Division) of the Department of Agriculture and Consumer Services to study the practice of veterinary pharmaceutical compounding (VPC), including all of the following matters:

- A review of current State and federal policies regulating VPC, taking into account the ongoing dialogue between the U.S. Food and Drug Administration and the American Veterinary Medical Association regarding the legality of compounding animal drugs from bulk drug substances.
- Recommendations for additional legislation needed to increase protection of animals administered compounded pharmaceutical agents and provide necessary oversight of (i) veterinary compounding pharmacies, (ii) veterinary pharmaceutical manufacturers engaging in VPC, and (iii) veterinary practices that prescribe or administer compounded pharmaceutical agents.

The Division would be required to consult with the North Carolina Board of Pharmacy and the North Carolina Veterinary Medical Board. The report and any recommendations would be required to be submitted to the Joint Legislative Administrative Procedure Oversight Committee, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Environmental Review Commission no later than March 1, 2018.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 196

Short Title: Veterinary Practice Omnibus.

(Public)

Sponsors: Senators Wade, Rabon, and B. Jackson (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 8, 2017

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE PRACTICE OF HORSESHOEING IS NOT THE
PRACTICE OF VETERINARY MEDICINE AND TO STUDY VETERINARY
PHARMACEUTICAL COMPOUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. 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."

SECTION 2. The Veterinary Division of the Department of Agriculture and Consumer Services shall study the practice of veterinary pharmaceutical compounding (VPC). The study shall include the following:

- (1) A review of current State and federal policies regulating VPC, taking into account the ongoing dialogue between the U.S. Food and Drug Administration and the American Veterinary Medical Association regarding the legality of compounding animal drugs from bulk drug substances.
- (2) Recommendations for additional legislation needed to increase protection of animals administered compounded pharmaceutical agents and provide necessary oversight of (i) veterinary compounding pharmacies, (ii) veterinary pharmaceutical manufacturers engaging in VPC, and (iii) veterinary practices that prescribe or administer compounded pharmaceutical agents.

In conducting its study, the Division shall consult with the North Carolina Board of Pharmacy and the North Carolina Veterinary Medical Board. The Division shall submit its report and any recommendations to the Joint Legislative Administrative Procedure Oversight Committee, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Environmental Review Commission no later than March 1, 2018.



1

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 107

Short Title: Streamline Dam Removal. (Public)

Sponsors: Senators Wells, Gunn, B. Jackson (Primary Sponsors); and Woodard.

Referred to: Rules and Operations of the Senate

February 20, 2017

A BILL TO BE ENTITLED
AN ACT TO REMOVE SAFETY HAZARDS AND RESTORE NORTH CAROLINA'S
NATURAL RIVERINE RESOURCES BY FACILITATING THE REMOVAL OF
OBSOLETE AND UNWANTED DAMS.

The General Assembly of North Carolina enacts:

EXEMPT CERTAIN DAM REMOVALS FROM PERMITTING REQUIREMENTS

SECTION 1.(a) G.S. 143-215.25 reads as rewritten:

"§ 143-215.25. Definitions.

- (1) ~~"Dam" means a~~Dam. – A structure and appurtenant works erected to impound or divert water.
- (2) ~~"Minimum stream flow" or "minimum flow" means a~~Minimum stream flow or minimum flow. – A stream flow of a quantity and quality sufficient in the judgment of the Department to meet and maintain stream classifications and water quality standards established by the Department under G.S. 143-214.1 and applicable to the waters affected by the project under consideration, and to maintain aquatic habitat in the length of the stream that is affected.
- (3) Professionally supervised dam removal. – The removal of a dam that (i) is not operated primarily for flood control or hydroelectric power generation purposes and (ii) is designed and supervised by a qualified engineer.
- (4) Qualified engineer. – An engineer licensed as a professional engineer under Chapter 89C of the General Statutes."

SECTION 1.(b) G.S. 143-215.27 reads as rewritten:

"§ 143-215.27. Repair, alteration, or removal of dam.

(a) Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the Department, except as otherwise provided by this Part. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the Department requires. The Department may waive any such requirements. The application shall give such other information concerning the dam and reservoir required by the Department, such information concerning the safety of any change as it may require, and shall state the proposed time of commencement and completion of the work. When an application has been completed it may be referred by the Department for agency review and report, as provided by subsection (b) of G.S. 143-215.26 in the case of original construction. This subsection shall not apply to a professionally supervised dam removal.

...



(c) A professionally supervised dam removal is not subject to the procedures set forth in this section, provided that the person proposing to remove the dam complies with all of the following:

- (1) A qualified engineer determines based on good engineering practices that the removal of the dam can be accomplished safely and the removal plan reflects (i) the geomorphology of the streambed upriver and downriver from the dam site and (ii) the most desirable longitudinal profile for the post-removal stream channel that will minimize physical impacts on riparian landowners.
- (2) The person notifies the director of the Division of Energy, Mineral, and Land Resources of the Department of the proposed removal no less than 30 days prior to removal. The notice shall include information identifying the dam, including the stream and county where the dam is located, the dam's height and impoundment capacity, a map showing the dam location and vicinity, and a certification from the owner of the dam that the dam is currently not operated for the purposes of flood control or hydroelectric power generation. The notification and certification required by this subdivision may be provided electronically.
- (3) The person notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety and all impacted local governments of the dam removal. The notice shall include a qualified engineer's determination of (i) the removal plan for the dam based on the criteria set forth in subdivision (1) of this subsection and (ii) that the removal will lower or maintain water levels above the location of the dam and will not cause an increase in the risk of flood damage. For purposes of the notice required by this subdivision, an "impacted local government" shall mean any unit of local government that could experience changes to its base floodplain (as defined in G.S. 143-215.54) as a result of the dam removal."

SECTION 1.(c) G.S. 143-215.28A reads as rewritten:

"§ 143-215.28A. Application fees.

(a) In accordance with G.S. 143-215.3(a)(1a), the Commission may establish a fee schedule for processing (i) applications for approvals of construction or removal of dams issued under this ~~Part~~ Part and (ii) notifications of professionally supervised dam removals under G.S. 143-215.27(c). In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications and notifications and for related compliance activities. The total amount of fees collected in any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing the applications and for related compliance activities in the prior fiscal year. An approval fee may not exceed the larger of two hundred dollars (\$200.00) or two percent (2%) of the actual cost of construction or removal of the applicable dam. A fee for notification of professionally supervised dam removals under G.S. 143-215.27(c) may not exceed the lesser of one half percent (0.5%) of the actual cost of removal or five hundred dollars (\$500.00). The provisions of G.S. 143-215.3(a)(1b) do not apply to these fees.

...."

SECTION 1.(d) G.S. 143-215.30 reads as rewritten:

"§ 143-215.30. Notice of completion; certification of final approval; notice of transfer.

(a) ~~Immediately~~ Except as set forth in subsection (d1) of this section, immediately upon completion, enlargement, repair, alteration or removal of a dam, notice of completion shall be given the Commission. As soon as possible thereafter supplementary drawings or descriptive matter showing or describing the dam as actually constructed shall be filed with the Department in such detail as the Commission may require.

...

(d1) The requirements of this section shall not apply to a professionally supervised dam removal under G.S. 143-215.27(c) if the person removing the dam provides confirmation of completion of dam removal to the Department within 10 days of completion of the removal.

(e) The owner of a dam shall provide written notice of transfer to the Department within 30 days after title to the dam has been legally transferred. The notice of transfer shall include the name and address of the new dam owner."

SECTION 1.(e) G.S. 143-215.56 is amended by adding a new subsection to read:

"§ 143-215.56. **Delineation of flood hazard areas and 100-year floodplains; powers of Department; powers of local governments and of the Department.**

...

(d) The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

- (1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.
- (2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.
- (3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

- (1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.
- (2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

(h) To the extent permitted by National Flood Insurance Program requirements, a professionally supervised dam removal, as defined in G.S. 143-215.25, that complies with the requirements of G.S. 143-215.27(c) shall not be required to submit a Letter of Map Revision to the Department."

PRIVATE DUTY TO INSPECT

SECTION 2.(a) G.S. 143-215.32(a) and G.S. 143-215.32(a1) are recodified as G.S. 143-215.32(a1) and G.S. 143-215.32(a2).

SECTION 2.(b) G.S. 143-215.32, as recodified by subsection (a) of this section, reads as rewritten:

"§ 143-215.32. **Inspection of dams.**

(a) The owner of any dam regulated under this Part, and the owner's heirs, successors, or assigns shall be responsible for regularly inspecting the dam to insure its safety and proper

operation and maintenance. The inspection shall be performed by an engineer licensed as a professional engineer under Chapter 89C of the General Statutes, and a report shall be submitted to the Department within 30 days of the inspection. The Department shall specify by rule the inspection frequency, protocol, and reporting format.

(a1) ~~The Nothing in this section is intended to limit the power of the Department may at any time to inspect any dam, including a dam that is otherwise exempt from this Part, upon receipt of a written request of any affected person or agency, or upon a motion of the Environmental Management Commission. Within the limits of available funds the Department shall endeavor to provide for inspection of all dams at intervals of approximately five years.~~

...

(b) If the Department upon inspection or upon receipt of a report required by this section finds that any dam is not sufficiently strong, is not maintained in good repair or operating condition, is dangerous to life or property, or does not satisfy minimum streamflow requirements, the Department shall present its findings to the Commission and the Commission may issue an order directing the owner or owners of the dam to make at his or her expense maintenance, alterations, repairs, reconstruction, change in construction or location, or removal as may be deemed necessary by the Commission within a time limited by the order, not less than 90 days from the date of issuance of each order, except in the case of extreme danger to the safety of life or property, as provided by subsection (c) of this section.

...."

STREAMLINE ENVIRONMENTAL PERMITTING OF DAM REMOVAL

SECTION 3.(a) G.S. 143-214.7C reads as rewritten:

"§ 143-214.7C. Prohibit the requirement of mitigation for ~~impacts to intermittent streams.~~ certain impacts.

Except as required by federal law, the Department of Environmental Quality shall not require mitigation for ~~impacts any of the following:~~

(1) Impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1)a. It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2)b. The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3)c. It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

(2) Impacts associated with the removal of a dam, when the removal complies with the requirements of Part 3 of this Article."

SECTION 3.(b) The Division of Water Resources of the Department of Environmental Quality shall develop a water quality general certification under section 401 of the Clean Water Act for short term sediment releases associated with the construction phase of a dam removal when all of the following occur:

(1) The removal meets the definition and requirements of a professionally supervised dam removal under G.S. 143-215.27, as amended by Section 1 of this act.

(2) The applicant for the water quality general certification demonstrates that the sediment to be released has similar or lower level of contamination than sediment sampled from downstream of the dam.

**DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AMEND THE
DAM HEIGHT RULE TO MEASURE HEIGHT FROM THE LOWEST POINT ON THE
CREST OF THE DAM**

SECTION 4.(a) Definitions. – "Dam Height Rule" means 15A NCAC 2K .0223 (Dam Height and Storage Determination) for purposes of this section and its implementation.

SECTION 4.(b) Dam Height Rule. – Until the effective date of the revised permanent rule that the Environmental Management 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 4.(c) Implementation. – The Commission shall measure the height of a dam for purposes of dam size classification from the lowest point on the crest of the dam to the lowest point on the downstream toe.

SECTION 4.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Dam Height 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 4.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

**CLEAN WATER MANAGEMENT TRUST FUND ELIGIBILITY FOR CERTAIN DAM
REMOVALS**

SECTION 5. G.S. 143B-135.234(c) reads as rewritten:

"(c) Fund Purposes. – Moneys from the Fund are appropriated annually to finance projects to clean up or prevent surface water pollution and for land preservation in accordance with this Part. Revenue in the Fund may be used for any of the following purposes:

- (1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.
- (2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and enhancing drinking water supplies, including the development of water supply reservoirs.
- (3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.
- (4) To restore previously degraded lands to reestablish their ability to protect water quality.
- (4a) To remove obsolete and unwanted dams, where the removal will enhance or restore ecological functions or improve water quality.

...."

STUDY FURTHER STREAMLINING OF DAM REMOVAL

SECTION 6. The Department of Environmental Quality shall study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. As part of its study, the Department shall review the dam removal permitting process in New Hampshire, Massachusetts, and Pennsylvania and other states as the Department finds

1 relevant. The Department shall submit its report to the Environmental Review Commission no
2 later than March 1, 2018.

3
4 **EFFECTIVE DATE**

5 **SECTION 7.** Section 6 of this act is effective when it becomes law. The remainder of
6 this act becomes effective July 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 107
PROPOSED COMMITTEE SUBSTITUTE S107-PCS15187-SB-12

Short Title: Streamline Dam Removal.

(Public)

Sponsors:

Referred to:

February 20, 2017

A BILL TO BE ENTITLED
AN ACT TO REMOVE SAFETY HAZARDS AND RESTORE NORTH CAROLINA'S
NATURAL RIVERINE RESOURCES BY FACILITATING THE REMOVAL OF
OBSOLETE AND UNWANTED DAMS.

The General Assembly of North Carolina enacts:

EXEMPT CERTAIN DAM REMOVALS FROM PERMITTING REQUIREMENTS

SECTION 1.(a) G.S. 143-215.25 reads as rewritten:

"§ 143-215.25. Definitions.

- (1) ~~"Dam" means a~~Dam. – A structure and appurtenant works erected to impound or divert water.
- (2) ~~"Minimum stream flow" or "minimum flow" means a~~Minimum stream flow or minimum flow. – A stream flow of a quantity and quality sufficient in the judgment of the Department to meet and maintain stream classifications and water quality standards established by the Department under G.S. 143-214.1 and applicable to the waters affected by the project under consideration, and to maintain aquatic habitat in the length of the stream that is affected.
- (3) Professionally supervised dam removal. – The removal of a low or intermediate hazard dam that (i) is not operated primarily for flood control or hydroelectric power generation purposes and (ii) is designed and supervised by a qualified engineer.
- (4) Qualified engineer. – An engineer licensed as a professional engineer under Chapter 89C of the General Statutes."

SECTION 1.(b) G.S. 143-215.27 reads as rewritten:

"§ 143-215.27. Repair, alteration, or removal of dam.

(a) Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the Department, except as otherwise provided by this Part. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the Department requires. The Department may waive any such requirements. The application shall give such other information concerning the dam and reservoir required by the Department, such information concerning the safety of any change as it may require, and shall state the proposed time of commencement and completion of the work. When an application has been completed it may be referred by the Department for agency review and report, as provided by subsection (b) of G.S. 143-215.26 in the case of



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original construction. This subsection shall not apply to a professionally supervised dam removal.

...

(c) A professionally supervised dam removal is not subject to the procedures set forth in subsection (a) of this section, provided that the dam removal complies with all of the following:

(1) A qualified engineer determines, based on good engineering practices, that the removal of the dam can be accomplished safely, certifies that the dam is a low or intermediate hazard dam, and the removal plan reflects (i) the geomorphology of the streambed upriver and downriver from the dam site and (ii) the most desirable longitudinal profile for the post-removal stream channel that will minimize physical impacts on riparian landowners.

(2) The person who proposes to remove the dam notifies the director of the Division of Energy, Mineral, and Land Resources of the Department of the proposed removal no less than 60 days prior to removal. The notice shall include information identifying the dam, including the stream and county where the dam is located, the dam's height and impoundment capacity, a map showing the dam location and vicinity, the qualified engineer's name and North Carolina license number, and a notarized certification from the owner of the dam that the dam is a low or intermediate hazard dam not currently operated for the purposes of flood control or hydroelectric power generation. The notification and certification required by this subdivision may be provided electronically.

(3) The person who proposes to remove the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety, the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the proposed removal no less than 60 days prior to removal. The notice shall include a qualified engineer's determination that (i) the removal plan for the dam is based on the criteria set forth in subdivision (1) of this subsection and (ii) the removal will lower or maintain water levels above the location of the dam and will not cause an increase in the risk of flood damage or impacts to downstream bridges or road crossings. For purposes of the notice required by this subdivision, an "impacted local government" shall mean any unit of local government that could experience changes to its base floodplain, as defined in G.S. 143-215.54, as a result of the dam removal."

SECTION 1.(c) G.S. 143-215.28A reads as rewritten:

"§ 143-215.28A. Application fees.

(a) In accordance with G.S. 143-215.3(a)(1a), the Commission may establish a fee schedule for processing applications for approvals of construction or removal of dams issued under this Part. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications and for related compliance activities. The total amount of fees collected in any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing the applications and for related compliance activities in the prior fiscal year. An approval fee may not exceed the larger of two hundred dollars (\$200.00) or two percent (2%) of the actual cost of construction or removal of the applicable dam. The fee for notification of a professionally supervised dam removal under G.S. 143-215.27(c)(1) shall be five hundred dollars (\$500.00) and shall be paid to the Department. The provisions of G.S. 143-215.3(a)(1b) do not apply to these fees.

...."

SECTION 1.(d) G.S. 143-215.30 reads as rewritten:

"§ 143-215.30. **Notice of completion; certification of final approval; notice of transfer.**

(a) ~~Immediately~~ Except as set forth in subsection (d1) of this section, immediately upon completion, enlargement, repair, alteration or removal of a dam, notice of completion shall be given the Commission. As soon as possible thereafter supplementary drawings or descriptive matter showing or describing the dam as actually constructed shall be filed with the Department in such detail as the Commission may require.

...
(d1) The requirements of this section shall not apply to a professionally supervised dam removal under G.S. 143-215.27(c) if the person removing the dam provides confirmation of completion of dam removal to the Department within 10 days of completion of the removal.

(e) The owner of a dam shall provide written notice of transfer to the Department within 30 days after title to the dam has been legally transferred. The notice of transfer shall include the name and address of the new dam owner."

SECTION 1.(e) G.S. 143-215.56 is amended by adding a new subsection to read:

"§ 143-215.56. **Delineation of flood hazard areas and 100-year floodplains; powers of Department; powers of local governments and of the Department.**

...
(d) The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

(h) To the extent permitted by National Flood Insurance Program requirements, a professionally supervised dam removal, as defined in G.S. 143-215.25, that complies with the requirements of G.S. 143-215.27(c) shall not be required to submit a Letter of Map Revision to the Department."

STREAMLINE ENVIRONMENTAL PERMITTING OF DAM REMOVAL

SECTION 2.(a) G.S. 143-214.7C reads as rewritten:

"§ 143-214.7C. Prohibit the requirement of mitigation for ~~impacts to intermittent streams~~ certain impacts.

Except as required by federal law, the Department of Environmental Quality shall not require mitigation for ~~impacts~~ any of the following:

(1) Impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1)a. It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2)b. The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3)c. It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

(2) Impacts associated with the removal of a dam, when the removal complies with the requirements of Part 3 of this Article."

SECTION 2.(b) The Division of Water Resources of the Department of Environmental Quality shall develop a water quality general certification under section 401 of the Clean Water Act for short-term sediment releases associated with the construction phase of a dam removal when all of the following occur:

(1) The removal meets the definition and requirements of a professionally supervised dam removal under G.S. 143-215.27, as amended by Section 1 of this act.

(2) The applicant for the water quality general certification demonstrates that the sediment to be released has similar or lower level of contamination than sediment sampled from downstream of the dam.

DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AMEND THE DAM HEIGHT RULE TO MEASURE HEIGHT FROM THE LOWEST POINT ON THE CREST OF THE DAM

SECTION 3.(a) Definitions. – "Dam Height Rule" means 15A NCAC 2K .0223 (Dam Height and Storage Determination) for purposes of this section and its implementation.

SECTION 3.(b) Dam Height Rule. – Until the effective date of the revised permanent rule that the Environmental Management 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 3.(c) Implementation. – For purposes of implementing professionally supervised dam removals, the Commission shall measure the height of a dam for purposes of dam size classification from the lowest point on the crest of the dam to the lowest point on the downstream toe.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Dam Height 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 3.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

STUDY FURTHER STREAMLINING OF DAM REMOVAL

SECTION 4. The Department of Environmental Quality and the Department of Public Safety shall jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. As part of its study, the Departments shall review the dam removal permitting processes in New Hampshire, Massachusetts, and Pennsylvania and other states as the Department finds relevant. The Departments shall jointly submit its report to the Environmental Review Commission no later than March 1, 2020.

EFFECTIVE DATE

SECTION 5. Section 4 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2017.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE JOINT RESOLUTION 205

Sponsors: Senators Cook, Sanderson (Primary Sponsors); and Rabin.

Referred to: Rules and Operations of the Senate

March 8, 2017

1 A JOINT RESOLUTION OF SUPPORT FOR REVISIONS TO POLICIES OF THE U.S. ARMY
2 CORPS OF ENGINEERS TO ALLOW SHELLFISH CULTIVATION AND
3 AQUACULTURE ACTIVITIES IN NORTH CAROLINA WATERS CONTAINING
4 SUBMERGED AQUATIC VEGETATION.

5 Whereas, under current policies of the Wilmington District of the U.S. Army Corps of
6 Engineers, shellfish cultivation and aquaculture activities are banned in areas of North Carolina
7 sounds and estuaries containing submerged aquatic vegetation (SAV), a policy that is stricter than
8 policies used in other coastal states, including the Commonwealth of Virginia; and

9 Whereas, Section 11 of the 2015 Farm Act (S.L. 2015-263) allows the Marine
10 Fisheries Commission to issue shellfish cultivation leases in areas containing SAV to the extent
11 allowed by federal law; and

12 Whereas, the 2016 Stock Status Report of the Division of Marine Fisheries continues
13 to classify the eastern oyster as a species of concern, with juvenile abundance indices for 2015
14 well below the average for the prior 10 years; and

15 Whereas, the encouragement of oyster cultivation and aquaculture has the potential to
16 increase water quality due to the ability of adult oysters to filter between 13 and 50 gallons of
17 water a day; and

18 Whereas, oyster beds provide food and habitat for more than 300 other species,
19 including crabs, shrimp, and multiple juvenile and adult fish species; and

20 Whereas, portions of coastal waters with SAV in many cases were historically viable
21 oyster producing sites; and

22 Whereas, the amendment of the Regional Conditions for Nationwide Permits to allow
23 shellfish bottom leases in areas containing SAV under certain circumstances would encourage the
24 expansion of shellfish cultivation and aquaculture in these areas and provide a source of economic
25 development in coastal portions of the State; Now, therefore,

26 Be it resolved by the Senate, the House of Representatives concurring:

27 **SECTION 1.** The General Assembly supports the revision of section 3.8 of the
28 proposed 2017 Regional Conditions for Nationwide Permits under section 404 of the Clean Water
29 Act for the Wilmington District of the U.S. Army Corps of Engineers to replace the current ban on
30 adverse impacts to submerged aquatic vegetation with a requirement that adverse impacts are
31 allowed if an essential fish habitat consultation under the federal Magnuson-Stevens Fisheries
32 Conservation and Management Act has been completed.

33 **SECTION 2.** The Secretary of State shall transmit copies of this resolution to the
34 Wilmington District, the South Atlantic Division, and the Chief of Engineers and Commanding
35 General of the U.S. Army Corps of Engineers.

36 **SECTION 3.** This resolution is effective upon ratification.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 217

Short Title: Richmond/Right-of-Way Safety. (Local)

Sponsors: Senator McInnis (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 9, 2017

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT THE DISCHARGE OF A FIREARM OR BOW AND ARROW FROM
THE RIGHT-OF-WAY IN RICHMOND COUNTY.

The General Assembly of North Carolina enacts:

SECTION 1. It is unlawful to discharge a firearm or bow and arrow, or to attempt to discharge a firearm or bow and arrow, from, on, across, or over the roadway or right-of-way of any public road. For purposes of this section, the term "public road" shall not include any unpaved roads within the Wildlife Resources Commission's Sandhills Game Land.

SECTION 2. Violation of the provisions of this act is punishable as a Class 3 misdemeanor.

SECTION 3. This act is enforceable by law enforcement officers of the Wildlife Resources Commission, by sheriffs and deputy sheriffs, and by other peace officers with general subject matter jurisdiction.

SECTION 4. This act applies only to Richmond County.

SECTION 5. This act becomes effective October 1, 2017, and applies to offenses committed on or after that date.



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE RESOLUTION 370

Sponsors: Senators Rabon (Primary Sponsor); Cook and Horner.

Referred to: Rules and Operations of the Senate

March 27, 2017

1 A SENATE RESOLUTION OPPOSING THE PRIVATIZATION OF SOUTH ATLANTIC
2 FEDERAL FISHERY RESOURCES THROUGH CATCH SHARE MANAGEMENT
3 AND EFFORTS THROUGH EXEMPTED FISHING PERMITS OR OTHER MEANS TO
4 CONDUCT PILOT CATCH SHARE PROGRAMS OR STUDIES.

5 Whereas, "catch share" is a term for fishery management strategies that allocate a
6 specific portion of the total allowable fishery catch to individuals or other entities, effectively
7 giving private ownership of federal fishery resources to individuals and corporations; and

8 Whereas, in 2010, the National Oceanic and Atmospheric Administration (NOAA)
9 Fisheries adopted a national catch share policy, which states that "NOAA encourages the
10 consideration and adoption of catch shares wherever appropriate in fishery management and
11 ecosystem plans and their amendments, and will support the design, implementation, and
12 monitoring of catch share programs"; and

13 Whereas, private ownership of federal fishery resources through catch share
14 programs nationally has caused significant consolidation of fishing fleets, reducing access to
15 the resource and causing significant fishing job losses to the detriment of fishing communities
16 and the coastal economy; and

17 Whereas, a 2013 report by the Center for Investigative Reporting provides estimates
18 that as many as 18,000 fishing jobs were lost and 3,700 vessels were no longer fishing in areas
19 that had catch share programs, with those numbers being likely much higher now; and

20 Whereas, this year, a WVUE-TV, New Orleans, investigative report into the Gulf of
21 Mexico commercial red snapper fishery catch share program stated that just "50 businesses and
22 fishermen control 81% of the commercial red snapper allocation," causing many fishermen to
23 lose access to the fishery or forcing them to pay exorbitant prices to buy or rent red snapper
24 shares so they can remain employed in the fishery; and

25 Whereas, a 2013 NOAA study of the impacts of catch shares on southern New
26 England fishermen and families found that 70% said they were "worse/much worse off" with
27 catch shares; and

28 Whereas, fishery stakeholders in North Carolina and the South Atlantic are
29 overwhelmingly opposed to catch share programs in federal waters as evidenced by 97% of the
30 comments on the South Atlantic Fishery Management Council's long-range snapper-grouper
31 fishery management plan being opposed to any form of catch shares; and

32 Whereas, studies by the Lenfest Ocean Program and reports by Food and Water
33 Watch and others have shown that catch share programs provide no biological benefit or
34 enhanced sustainability to fisheries; and

35 Whereas, saltwater fishing is economically very important to North Carolina, with
36 recreational and commercial fishing in 2014 generating \$1,500,000,000 and \$115,000,000 in
37 sales and supporting 16,007 and 3,220 jobs respectively, according to NOAA; Now, therefore,
38 Be it resolved by the Senate:



1 **SECTION 1.** That members of the Senate, by this resolution, oppose the use of
2 catch share fisheries management in federal waters off North Carolina and in the South Atlantic
3 and any efforts through exempted fishing permits or other means to conduct pilot catch share
4 programs or studies.

5 **SECTION 2.** The Principal Clerk shall transmit copies of this resolution to the
6 South Atlantic Fishery Management Council, NOAA Fisheries, and the North Carolina Marine
7 Fisheries Commission.

8 **SECTION 3.** This resolution is effective upon adoption.



SENATE BILL 244: Coastal Crescent Trail/State Parks System.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 19, 2017
Introduced by:	Sen. B. Jackson	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 244 requires the Department of Natural and Cultural Resources to add the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail unit of the State Parks System.*

[As introduced, this bill was identical to H361, as introduced by Reps. Shepard, McElraft, White, Strickland, which is currently in Senate Rules and Operations of the Senate.]

CURRENT LAW: G.S. 143B-135.54(b) provides that the Department of Natural and Cultural Resources (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 directs the Department to add the Coastal Crescent Trail (CCT) to the Mountains to Sea State Park Trail (MST) unit of the State Parks System. The Department is directed to amend the State Parks System Plan accordingly, no later than October 1, 2017. The bill also provides that the Coastal Crescent route of the Mountains to Sea Trail may include public and private lands, and requires that the Secretary and staff of the Department work cooperatively with the staff and volunteers of Friends of the Mountains to Sea Trail to plan and develop the Coastal Crescent route.

BACKGROUND: The CCT runs through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow counties, and was originally established as a temporary detour around portions of the MST that have not yet been constructed.

Adding the CCT to the State Parks System would make it eligible for the State share of funds from the Parks and Recreation Trust Fund and for the State Trail portion of the Connect NC Bond funds, and would make the Department's Division of Parks and Recreation responsible for overall planning and coordination for the trail. However, the Division would not be responsible for constructing and operating the entire trail.

More information on the CCT and State Trails generally, prepared by the Division of Parks and Recreation, is attached to this summary.

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

Nicholas Giddings, counsel to House State and Local Government II, substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 244

Short Title: Coastal Crescent Trail/State Parks System. (Public)

Sponsors: Senator B. Jackson (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 14, 2017

A BILL TO BE ENTITLED

AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE MOUNTAINS-TO-SEA
STATE TRAIL.

The General Assembly of North Carolina enacts:

SECTION 1. The Department of Natural and Cultural Resources shall add the Coastal Crescent Trail through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow counties, as well as other counties designated by the Secretary of the Department of Natural and Cultural Resources, to the Mountains-to-Sea State Park Trail unit of the State Parks System as provided in G.S. 143B-135.54(b). The Coastal Crescent route of the Mountains-to-Sea Trail shall include public and private lands as authorized by G.S. 143B-135.98. The Secretary and staff of the Department of Natural and Cultural Resources shall work cooperatively with the staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal Crescent route.

SECTION 2. No later than October 1, 2017, the Department of Natural and Cultural Resources shall amend the State Parks System Plan required by G.S. 143B-135.48 to reflect the addition of the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail.

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



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VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

4/19/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Mike Murphy	State Parks
Carol Tingley	State Parks
Dexi Arthur	NCKMA
Sarah McQuinn	KEANC
Cassie Garvin	Siena Club
Kate Dixon	Mountains-to-Sea Trail
Kathy King	BP
DAVID SNEED	CCANC
Boots Rainey Pearson	SELC
Jamie Cole	NCONSERVATION Network
Diana D. Clark	LINC DOC
Rob Hamant	FLA
Quinn Mearns	Wm
Rick Zechini	Williams Muller
Susan Vile	Duke Energy
Steve Matting	MST




VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

4/19/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Peter Ruber	American Rivers
Tien Cheng	Dept. Agr.
W. Sun	PPAB
John Goodman	CCC
Paul Sherman	NCFB
Rhonda Landon	MWC
Toby Vinson	DEQ
TRACY DAVIS	DEA
Andy Miller	DEQ
Linda Culpeper	DEQ
John Hord	MFS
Will Morgan	MFS
	CA
Jerry Schill	NCFB
Don Haskin	NCSTA
Prescott Howard	LCMA
Jay Stem	NCAA

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

4/19/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

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Senate Agriculture/Environment/Natural Resources Committee
Thursday, April 20, 2017, 10:00 AM
544 Legislative Office Building
Raleigh, North Carolina

AGENDA

Welcome and Opening Remarks

Senator Bill Cook

Introduction of Pages and Sergeant-at-Arms

Bills and Resolutions

Senate Bill 469 (Preserve Municipal Solid Waste Capacity)

Senator Harry Brown

Senate Bill 107 (Streamline Dam Removal)

Senators Wells, Gunn, and B. Jackson

Senate Bill 410 (Marine Aquaculture Development Act)

Senators Cook, Sanderson and Tillman

Senate Bill 434 (Amend Environmental Laws 2)

Senators Sanderson, Cook and Wells

Other Business

Please feel free to take the enclosed materials, but leave your folders to be used at the next meeting.

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, April 20, 2017

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

FAVORABLE

SB 469

Preserve Municipal Solid Waste Capacity.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Harry Brown will handle SB 469



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, April 20, 2017

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

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

SB 107

Streamline Dam Removal.

Draft Number:	S107-PCS15187-SB-12
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Andy Wells will handle SB 107



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Friday, April 21, 2017

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

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

SB 410	Marine Aquaculture Development Act.
	Draft Number: S410-PCS15190-SB-14
	Sequential Referral: Rules and Operations of the Senate
	Recommended Referral: None
	Long Title Amended: Yes
SB 434	Amend Environmental Laws 2.
	Draft Number: S434-PCS45414-RI-10
	Sequential Referral: Appropriations/Base Budget
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comments:

Report 3 of 3

Senator Bill Cook will handle SB 410
Senator Norman W. Sanderson will handle SB 434



* C M R 2 9 1 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, April 20, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on April 20, 2017 in Room 544 of the Legislative Office Building - 13 members were present.

Senator Bill Cook, Chair, presided.

SB 469 Preserve Municipal Solid Waste Capacity (Senator Brown)

Brown: The last C&D landfill permitted in the State was in Jones County. \$7,000,000 has been invested in it so it can also act as a recycling center. Counties are now passing ordinances stopping their waste from going to these landfills to essentially put them out of business. This bill stops counties from being able to do that.

Waddell: What areas are most pertinent?

Brown: This particular landfill is in Jones County in Eastern North Carolina.

Bryant: Do you know of any opposition to the bill?

Brown: I did get a note from DEQ with some concerns.

Michael Scott, DEQ: We have heard some concerns from other landfill operators. We simply conveyed that information to the Senator.

Wade: To me it looks like we are trying to reduce the amount of C&D going into a landfill, which we need to do anyway. Are we telling cities how to dispose of their C&D?

Brown: The intent of the bill is not to do that. The bill is to not allow a county or city to regulate these situations.

Wade: This is a good bill and I motion for a favorable report.

Rabin: Is there any kind of environmental issue here?

DEQ: We do not see any specific issues here.

Vote: Passes

SB 107 Streamline Dam Removal. (Senators Wells, Gunn, B. Jackson)

Wells: I'm available for questions.



Waddell: Why was Section 3 not eliminated?

Wells: Section 3 directs the Environmental Management Commission to measure dams in the case they are unmanaged and unmaintained.

Smith-Ingram: Is there an opportunity to appeal if property owners don't want their dam removed?

Staff: There is no decision to appeal. They are just getting noticed that it's happening.

Smith-Ingram: Can we hear from DEQ?

Andy Miller, DEQ: We agree with Senator Wells. The bill is good.

Vote: Passes

SB 410 Marine Aquaculture Development Act. (Senators Cook, Sanderson, Tillman)

Cook: The aquaculture industry is worth many billions of dollars. North Carolina has tremendous potential in this industry. This amendment is mainly technical and involves wording changes. We are deleting and changing several parts of language throughout the amendment. I am ready to answer questions.

Bryant: requests staff to go through the amendment.

Staff: explains the amendment.

Jackson: moves to adopt the amendment.

Amendment: Passes

Cook: The bill puts in place the permitting structure to establish a sustainable and successful industry in our State. The first part of the bill establishes the leasing and permitting process. The next section requests that a regulatory system be put in place.

Waddell: Why are we bringing forth this legislation?

Cook: No, we are trying to encourage sea-farming.

Sebastian Bell, Maine Aquaculture Association: North Carolina has a tremendous amount of potential in this industry. I'd be glad to answer any questions if you all have them.

(None)



Alexander: I would like to commend the efforts on the oyster farming, but is there a limit to how much land a single entity can lease?

Cook: The Marine Fisheries Commission will be in position to monitor what's going on.

Smith-Ingram: makes a motion to adopt the bill as amended.

Vote: Passes

SB 434 Amend Environmental Laws 2. (Senators Sanderson, Cook, Wells)

Sanderson: requested staff to run through the bill.

Staff: explains the intent of the bill.

The meeting recessed at 10:48 a.m., to reconvene 15 Minutes after Committee on Rules and Operations of the Senate.

The Senate Committee on Agriculture/Environment/Natural Resources reconvened at 1:30 p.m., Thursday, April 20, 2017 in Room 643 of the Legislative Office Building – 9 members were present.

SB 434 Amend Environmental Laws 2. (Senators Sanderson, Cook, Wells)

Sanderson: This bill has various amendments that we will introduce. The first three amendments address the following matters:

-Lt. Governor or his appointee can chair meetings of the Energy Policy Council.

Alexander: moves to adopt the amendment.

Amendment: Passes

Second Amendment - technical change regarding dates.

Staff: explains the amendment.

Alexander: moves to adopt the amendment.

Amendment: Passes

Third Amendment - this amendment creates an exemption for buffer rules for areas in which the buffers pose a risk to public safety. Senator Gunn explains the amendment.

Brock: moves to adopt the amendment.



Amendment: Passes

Wells: Forth Amendment - this amendment would repeal the Catawba Buffer Rules.

Andy Miller, DEQ: We are not able to tell you where we are on this amendment yet.

Smith-Ingram: Are you saying that by exempting this river, you don't want to protect this water source?

Wells: No, I did not say that at all.

Smith-Ingram: Has an impact study been done?

Wells: No.

Brock: moves to adopt the amendment.

Amendment: Passes

Wells: Fifth Amendment - this amendment seeks to treat homeowners fairly and strike a balance between HOA's in New Hanover County and Homeowners.

Tracy Davis, DEQ: We are concerned about non-compliance going forward and the precedent this may set.

Brock: moves to adopt the amendment.

Amendment: Passes

Cook: Sixth Amendment

- This amendment is mainly technical and involves wording changes. We are deleting and changing several parts of language throughout the amendment. I am ready to answer questions.

Smith-Ingram: What is the reason for striking "residents of North Carolina from the amendment?"

Cook: We wanted to attract as many people as possible to grow the economy.

Brock: moves to adopt the amendment.

Amendment: Passes

Cook: Seventh Amendment

This amendment would repeal the ban on plastic bags on the Outer Banks, mainly in parts of Dare, Currituck, and Hyde Counties. The purpose of the legislation banning plastic bags was a noble goal. However, this ban has not worked and is only causing harm to businesses. The statis-



tics from DEQ not only show that after two years, the ban didn't work, but that there were actually more bags on the beaches. This ban costs businesses hundreds of thousands of dollars annually. This money could have been used to invest in new business or hire more employees. It creates a burden for our job creators. The North Carolina Retail Merchant's association supports this bill. I ask for your support.

Bryant: Are there any citizens here to speak on the matter? I am told this is a very controversial matter and would like to hear from the people who live there.

Newton: Have the materials in the bags become more biodegradable or friendly to the environment?

Cook: I do not know for sure. Let me point out though that the ban isn't even for the whole counties, only the beach areas. The studies from Wrightsville beach show that, when you go out and pick up garbage on the beach, the least prevalent is actually the plastic bags. You're much more likely to go out and find many other things.

Brooks Rainey-Pearson, SELC: This ban is very popular in the Outer Banks. We have a number of local officials that are ready to speak on this because it is so popular and works so well. A conservative value is local government. Well, the local governments like this ban so we should allow them to keep it. Turtles can't tell the difference between these bags and turtles. The Outer Banks is a crucial sea turtle nesting area and these bags are terribly harmful for the wildlife. The only organization that doesn't like this ban is Food Lion. The small retailers are fine with this ban and I think the locals should be offered a chance to speak on it.

Cook: There are a lot of assumptions made in that last speech. This ban doesn't do anything for the environment. Just because something makes you feel good doesn't mean it does anything.

Elizabeth Robinson, NC Retail Merchants Association: This bill is at the top of our members' radar that they would like to see it removed. We have heard from many members in the area that they do not want to have this ban in place. Because of the nature of this ban, businesses are very limited in the types of initiatives they are allowed to put in place. I think there is also some misunderstanding of all the many, many difficult requirements for businesses to comply with this ban. There are also lots of studies that show paper bags cause a larger carbon footprint than plastic ones. There are better ways to control this problem, but the current law limits how we can handle it.

Brock: Can local operators still choose to use whatever type of bags they want under this bill?

Cook: Yes, we just want people to have the freedom of choice to use whatever they want; paper or plastic or anything.

Brock: So this would actually be more for local control than the current law?

Cook: Yes, the state shouldn't be telling people what kind of bags they can use.

Brock: moves to adopt the amendment.



Amendment: Passes

(Back on Bill)

Bryant: How are the falls lake provisions and date changes different from what we have now? I'd also like to hear from DEQ or any stakeholders.

Linda Culpepper, Division of Water Resources: We are seeing the bills just as they become for you know. We don't know the impacts of the date changes yet. We are still talking with the EPA on the impacts. We are going to continue these conversations for this issue and the Catawba River buffers amendment.

Bryant: I would like to ask the same question about Jordan Lake.

Division of Water Resources: We're in the same situation with the Jordan Lake rules too.

Senator Smith-Ingram: Has there been an environmental impact study on any section of this bill?

Senator Cook: Not that I'm aware of.

Senator Smith-Ingram: I must say that I'm concerned we are considering changing so many environmental regulations without doing a study first. I have extreme problems with section two, I would still like to hear from the stakeholders and get the data necessary for this decision.

Matthew Star, Upper Neuse River Keeper: The Catawba River keeper, who I've been in contact with, has serious issues with this bill. The buffers have many positive qualities. They reduce sediment impact as well as reducing flooding. I want to remind you all that the buffer aren't just for nutrient management.

Jerry Shell, North Carolina Fisheries Association: We support the bill as amended.

Michael Scott, DEQ: We have concerns for section one regarding yard waste and would like to continue the dialogue to ensure this language and definition is clear.

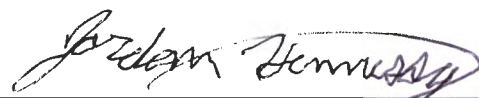
Brock: moves to adopt the bill as amended.

Vote: Passes

The meeting adjourned at 3:10 p.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk



SENATE BILL 469: Preserve Municipal Solid Waste Capacity.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 20, 2017
Introduced by:	Sen. Brown	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 469 would prohibit units of local government from enacting ordinances to prohibit the disposal of construction and demolition (C&D) debris in C&D landfills.*

CURRENT LAW and BACKGROUND:

C&D waste or debris is defined under the statutes to mean "solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, but does not include inert debris, land clearing debris or yard debris." Such debris may be disposed in C&D landfills, municipal solid waste landfills, and portions of the C&D waste stream, including clean wood and clean brick, block, etc., could be eligible for disposal in a land clearing and inert debris landfill. In addition, demolition debris from the decommissioning of manufacturing buildings may be disposed of on the same site as the decommissioned buildings if certain requirements are met.

The statutes currently authorize units of local government to, by ordinance, require that all solid waste generated within the geographic area and placed in the waste stream for disposal, be delivered to a permitted solid waste management facility or facilities serving the geographic area. Such ordinances are often called "flow control" ordinances, which are provisions that allow state and local governments to designate the places where solid waste must be taken for processing, treatment, or disposal. Flow controls ordinances are tools sometimes used by local governments to plan and fund solid waste management systems.

BILL ANALYSIS: The bill would prohibit units of local government from enacting ordinances to prohibit the disposal of C&D debris in a C&D landfill.

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

Karen Cochran-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 469

Short Title: Preserve Municipal Solid Waste Capacity. (Public)

Sponsors: Senator Brown (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 30, 2017

A BILL TO BE ENTITLED
AN ACT TO CONSERVE MUNICIPAL SOLID WASTE LANDFILL CAPACITY BY
PREVENTING THE ENACTMENT OF CERTAIN FLOW CONTROL MEASURES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-309.09B(a) reads as rewritten:

"(a) Each unit of local government shall establish and maintain a solid waste reduction program. The following requirements shall apply:

- (1) Demolition debris consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material may be used as fill and need not be disposed of in a permitted landfill or solid waste disposal facility, provided that demolition debris may not be placed in the waters of the State or at or below the seasonal high water table.
- (2) Repealed by Session Laws 1991, c. 621, s. 8.
- (3) Units of local government are encouraged to separate marketable plastics, glass, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses.
- (4) Notwithstanding G.S. 130A-291(b), units of local government shall not, by ordinance or otherwise, prohibit the disposal of construction and demolition debris in any sanitary landfill permitted for the disposal of construction and demolition debris."

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







SENATE BILL 107: Streamline Dam Removal.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 19, 2017
Introduced by:	Sens. Wells, Gunn, B. Jackson	Prepared by:	Jeff Hudson
Analysis of:	PCS to First Edition S107-CSSB-12 [v.5]		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for Senate Bill 107 (PCS) would amend State law on dam removal to expedite the removal process under certain circumstances.*

CURRENT LAW:

Under current State law, removal of a dam generally requires the approval of the Department of Environmental Quality (DEQ). An application to DEQ for dam removal must state the name and address of the applicant, describe the proposed removal process, and include maps, plans, specifications, and other such information as required by DEQ.

Under current State law, 15A NCAC 02K .0223, the height of a dam is measured from the highest point on the crest of the dam to the lowest point on the downstream toe. Dams that are less than 25 feet in height are exempt from the State's Dam Safety Law unless DEQ determines that failure of the dam could result in loss of human life or significant damage to property below the dam.

BILL ANALYSIS:

Section 1 would exempt professionally supervised dam removals from the requirement that a dam removal be approved by DEQ. A professionally supervised dam removal would be the removal of a low or intermediate hazard dam that is not operated primarily for flood control or hydroelectric power generation purposes, is designed and supervised by an engineer licensed under North Carolina law, and complies with all of the following:

- The engineer determines that the removal of the dam can be accomplished safely and certifies that the dam is a low or intermediate hazard dam.
- The person proposing the removal of the dam notifies the director of the Division of Energy, Mineral, and Land Resources in DEQ no less than 60 days prior to removal.
- The person proposing the removal of the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety (DPS), the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the dam removal no less than 60 days prior to removal.

Section 1 would establish a fee for a professionally supervised dam removal of \$500.00 and make other conforming changes.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate PCS 107

Page 2

Section 2 would provide that, except as required by federal law, DEQ will not require mitigation for impacts associated with the removal of a dam that is done in compliance with State law. Section 2 would also direct DEQ to develop a water quality certification that would allow short term sediment releases associated with a professionally supervised dam removal if the sediment to be released has a similar or lower levels of contamination than the sediment downstream of the dam.

Section 3 would provide that for purposes of implementing professionally supervised dam removals the height of a dam is measured from the lowest point on the crest of the dam to the lowest point on the downstream toe.

Section 4 would direct DEQ and DPS to jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce the regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. The Departments would jointly report the results of the study to the Environmental Review Commission no later than March 1, 2020.

EFFECTIVE DATE: The study provision in Section 4 would become effective when the bill becomes law. The remainder of the bill would become effective July 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 107
PROPOSED COMMITTEE SUBSTITUTE S107-CSSB-12 [v.5]

04/17/2017 03:08:10 PM

Short Title: Streamline Dam Removal.

(Public)

Sponsors:

Referred to:

February 20, 2017

A BILL TO BE ENTITLED
AN ACT TO REMOVE SAFETY HAZARDS AND RESTORE NORTH CAROLINA'S
NATURAL RIVERINE RESOURCES BY FACILITATING THE REMOVAL OF
OBSOLETE AND UNWANTED DAMS.

The General Assembly of North Carolina enacts:

EXEMPT CERTAIN DAM REMOVALS FROM PERMITTING REQUIREMENTS

SECTION 1.(a) G.S. 143-215.25 reads as rewritten:

"§ 143-215.25. Definitions.

- (1) ~~"Dam"~~ means aDam. – A structure and appurtenant works erected to impound or divert water.
- (2) ~~"Minimum stream flow" or "minimum flow"~~ means aMinimum stream flow or minimum flow. – A stream flow of a quantity and quality sufficient in the judgment of the Department to meet and maintain stream classifications and water quality standards established by the Department under G.S. 143-214.1 and applicable to the waters affected by the project under consideration, and to maintain aquatic habitat in the length of the stream that is affected.
- (3) Professionally supervised dam removal. – The removal of a low or intermediate hazard dam that (i) is not operated primarily for flood control or hydroelectric power generation purposes and (ii) is designed and supervised by a qualified engineer.
- (4) Qualified engineer. – An engineer licensed as a professional engineer under Chapter 89C of the General Statutes."

SECTION 1.(b) G.S. 143-215.27 reads as rewritten:

"§ 143-215.27. Repair, alteration, or removal of dam.

(a) Before commencing the repair, alteration or removal of a dam, application shall be made for written approval by the Department, except as otherwise provided by this Part. The application shall state the name and address of the applicant, shall adequately detail the changes it proposes to effect and shall be accompanied by maps, plans and specifications setting forth such details and dimensions as the Department requires. The Department may waive any such requirements. The application shall give such other information concerning the dam and reservoir required by the Department, such information concerning the safety of any change as it may require, and shall state the proposed time of commencement and completion of the work. When an application has been completed it may be referred by the Department for agency review and report, as provided by subsection (b) of G.S. 143-215.26 in the case of



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original construction. This subsection shall not apply to a professionally supervised dam removal.

...
(c) A professionally supervised dam removal is not subject to the procedures set forth in subsection (a) of this section, provided that the dam removal complies with all of the following:

- (1) A qualified engineer determines based on good engineering practices that the removal of the dam can be accomplished safely, certifies that the dam is a low or intermediate hazard dam, and the removal plan reflects (i) the geomorphology of the streambed upriver and downriver from the dam site and (ii) the most desirable longitudinal profile for the post-removal stream channel that will minimize physical impacts on riparian landowners.
- (2) The person who proposes to remove the dam notifies the director of the Division of Energy, Mineral, and Land Resources of the Department of the proposed removal no less than 60 days prior to removal. The notice shall include information identifying the dam, including the stream and county where the dam is located, the dam's height and impoundment capacity, a map showing the dam location and vicinity, the qualified engineer's name and North Carolina license number, and a notarized certification from the owner of the dam that the dam is a low or intermediate hazard dam not currently operated for the purposes of flood control or hydroelectric power generation. The notification and certification required by this subdivision may be provided electronically.
- (3) The person who proposes to remove the dam notifies the North Carolina Floodplain Mapping Program of the Department of Public Safety, the North Carolina Department of Transportation, adjacent property owners of the dam and reservoir, and all impacted local governments of the proposed removal no less than 60 days prior to removal. The notice shall include a qualified engineer's determination that (i) the removal plan for the dam is based on the criteria set forth in subdivision (1) of this subsection and (ii) the removal will lower or maintain water levels above the location of the dam and will not cause an increase in the risk of flood damage or impacts to downstream bridges or road crossings. For purposes of the notice required by this subdivision, an "impacted local government" shall mean any unit of local government that could experience changes to its base floodplain, as defined in G.S. 143-215.54, as a result of the dam removal."

SECTION 1.(c) G.S. 143-215.28A reads as rewritten:

"§ 143-215.28A. Application fees.

(a) In accordance with G.S. 143-215.3(a)(1a), the Commission may establish a fee schedule for processing applications for approvals of construction or removal of dams issued under this Part. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for processing the applications and for related compliance activities. The total amount of fees collected in any fiscal year may not exceed one-third of the total personnel and administrative costs incurred by the Department for processing the applications and for related compliance activities in the prior fiscal year. An approval fee may not exceed the larger of two hundred dollars (\$200.00) or two percent (2%) of the actual cost of construction or removal of the applicable dam. The fee for notification of a professionally supervised dam removal under G.S. 143-215.27(c)(1) shall be five hundred dollars (\$500.00) and shall be paid to the Department. The provisions of G.S. 143-215.3(a)(1b) do not apply to these fees.

...."



SECTION 1.(d) G.S. 143-215.30 reads as rewritten:

"§ 143-215.30. Notice of completion; certification of final approval; notice of transfer.

(a) ~~Immediately~~ Except as set forth in subsection (d1) of this section, immediately upon completion, enlargement, repair, alteration or removal of a dam, notice of completion shall be given the Commission. As soon as possible thereafter supplementary drawings or descriptive matter showing or describing the dam as actually constructed shall be filed with the Department in such detail as the Commission may require.

...
(d1) The requirements of this section shall not apply to a professionally supervised dam removal under G.S. 143-215.27(c) if the person removing the dam provides confirmation of completion of dam removal to the Department within 10 days of completion of the removal.

(e) The owner of a dam shall provide written notice of transfer to the Department within 30 days after title to the dam has been legally transferred. The notice of transfer shall include the name and address of the new dam owner."

SECTION 1.(e) G.S. 143-215.56 is amended by adding a new subsection to read:

"§ 143-215.56. Delineation of flood hazard areas and 100-year floodplains; powers of Department; powers of local governments and of the Department.

...
(d) The Department may prepare a floodplain map that identifies the 100-year floodplain and base flood elevations for an area for the purposes of this Part if all of the following conditions apply:

(1) The 100-year floodplain and base flood elevations for the area are not identified on a floodplain map prepared pursuant to the National Flood Insurance Program within the previous five years.

(2) The Department determines that the 100-year floodplain and the base flood elevations for the area need to be identified and the use of the area regulated in accordance with the requirements of this Part in order to prevent damage from flooding.

(3) The Department prepares the floodplain map in accordance with the federal standards required for maps to be accepted for use in administering the National Flood Insurance Program.

(e) Prior to preparing a floodplain map pursuant to subsection (d) of this section, the Department shall advise each local government whose jurisdiction includes a portion of the area to be mapped.

(f) Upon completing a floodplain map pursuant to subsection (d) of this section, the Department shall both:

(1) Provide copies of the floodplain map to every local government whose jurisdiction includes a portion of the 100-year floodplain identified on the floodplain map.

(2) Submit the floodplain map to the Federal Emergency Management Agency for approval for use in administering the National Flood Insurance Program.

(g) Upon approval of a floodplain map prepared pursuant to subsection (d) of this section by the Federal Emergency Management Agency for use in administering the National Flood Insurance Program, it shall be the responsibility of each local government whose jurisdiction includes a portion of the 100-year floodplain identified in the floodplain map to incorporate the revised map into its floodplain ordinance.

(h) To the extent permitted by National Flood Insurance Program requirements, a professionally supervised dam removal, as defined in G.S. 143-215.25, that complies with the requirements of G.S. 143-215.27(c) shall not be required to submit a Letter of Map Revision to the Department.



STREAMLINE ENVIRONMENTAL PERMITTING OF DAM REMOVAL

SECTION 2.(a) G.S. 143-214.7C reads as rewritten:

"§ 143-214.7C. Prohibit the requirement of mitigation for ~~impacts to intermittent streams.~~certain impacts.

Except as required by federal law, the Department of Environmental Quality shall not require mitigation for ~~impacts~~ any of the following:

(1) Impacts to an intermittent stream. For purposes of this section, "intermittent stream" means a well-defined channel that has all of the following characteristics:

(1)a. It contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table.

(2)b. The flow of water in the intermittent stream may be heavily supplemented by stormwater runoff.

(3)c. It often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

(2) Impacts associated with the removal of a dam, when the removal complies with the requirements of Part 3 of this Article."

SECTION 2.(b) The Division of Water Resources of the Department of Environmental Quality shall develop a water quality general certification under section 401 of the Clean Water Act for short term sediment releases associated with the construction phase of a dam removal when all of the following occur:

(1) The removal meets the definition and requirements of a professionally supervised dam removal under G.S. 143-215.27, as amended by Section 1 of this act.

(2) The applicant for the water quality general certification demonstrates that the sediment to be released has similar or lower level of contamination than sediment sampled from downstream of the dam."

DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION TO AMEND THE DAM HEIGHT RULE TO MEASURE HEIGHT FROM THE LOWEST POINT ON THE CREST OF THE DAM

SECTION 3.(a) Definitions. – "Dam Height Rule" means 15A NCAC 2K .0223 (Dam Height and Storage Determination) for purposes of this section and its implementation.

SECTION 3.(b) Dam Height Rule. – Until the effective date of the revised permanent rule that the Environmental Management 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 3.(c) Implementation. – For purposes of implementing professionally supervised dam removals, the Commission shall measure the height of a dam for purposes of dam size classification from the lowest point on the crest of the dam to the lowest point on the downstream toe.

SECTION 3.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Dam Height 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 3.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.



STUDY FURTHER STREAMLINING OF DAM REMOVAL

SECTION 4. The Department of Environmental Quality and the Department of Public Safety shall jointly study the dam removal process in North Carolina and recommend further changes in statutes or rules to reduce regulatory barriers to the removal of obsolete and unwanted dams and consolidate duplicative permit processes. As part of its study, the Departments shall review the dam removal permitting processes in New Hampshire, Massachusetts, and Pennsylvania and other states as the Department finds relevant. The Departments shall jointly submit its report to the Environmental Review Commission no later than March 1, 2020.

EFFECTIVE DATE

SECTION 5. Section 4 of this act is effective when it becomes law. The remainder of this act becomes effective July 1, 2017.





SENATE BILL 410: Marine Aquaculture Development Act.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 20, 2017
Introduced by:	Sens. Cook, Sanderson, Tillman	Prepared by:	Jeff Hudson
Analysis of:	First Edition		Legislative Analyst

OVERVIEW: *Senate Bill 410 would establish a program for the permitting of marine aquaculture activities in coastal and ocean waters.*

[As introduced, this bill was identical to H524, as introduced by Reps. Boswell, Shepard, which is currently in House Environment.]

CURRENT LAW:

Under current law, the State has a program for permitting and leasing areas underlying coastal fishing waters and the water columns above those areas for the production of shellfish.

BILL ANALYSIS:

Sections 1 and 2 would establish a program for the permitting of marine aquaculture activities as follows:

- Define "marine aquaculture" as the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching, marine hatcheries, and other deep water fish farming operations in the coastal and ocean waters of the State and, to the extent not inconsistent with federal law, to the limits of the United States exclusive economic zone and define "marine aquaculture facility" as any land, structure, or other appurtenance that is used for aquaculture, including, but not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment used in aquaculture.
- Direct the Marine Fisheries Commission (MFC) to designate which species of fish, crustaceans, and shellfish could be produced and sold under a Marine Aquaculture Propagation and Production Facility License (Facility License).
- Authorize the MFC to adopt rules to establish a Facility License.
- Make it unlawful for a person other than the Facility License holder to take aquatic species from a licensed Facility. A violation of this provision would be a Class A1 misdemeanor, which could include a fine of not more than \$5,000.
- Authorize the Secretary of Environmental Quality to lease public bottom and the superjacent water column for use by a licensed Facility.
- Establish an initial lease application filing fee of \$200 and a renewal filing fee of \$100 as well as a \$10 per acre annual lease rental fee.

Sharen Cochran-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 410

Page 2

Section 3 would direct the Division of Marine Fisheries of the Department of Environmental Quality (DMF) to:

- Request that the Mid Atlantic and South Atlantic Fishery Management Councils develop a Fishery Management Plan for regulating offshore aquaculture in federal waters offshore from the North Carolina coast.
- Petition the National Oceanic and Atmospheric Administration to initiate rule making proceedings to implement a comprehensive regulatory program for managing the development of an environmentally sound and economically sustainable aquaculture fishery in federal waters offshore from the North Carolina coast.

Section 3 would also direct DMF to provide an interim report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than February 1, 2018, regarding their progress in implementing this section and a final report on or before May 1, 2018, that includes the request and petition required by this section.

EFFECTIVE DATE:

The program for the permitting of marine aquaculture activities would become effective October 1, 2017. The remainder of the bill would become effective when the bill becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 410*

Short Title: Marine Aquaculture Development Act.

(Public)

Sponsors: Senators Cook, Sanderson, Tillman (Primary Sponsors); and Rabin.

Referred to: Rules and Operations of the Senate

March 29, 2017

A BILL TO BE ENTITLED

AN ACT TO CREATE A PROGRAM FOR THE PERMITTING OF MARINE
AQUACULTURE ACTIVITIES AND TO REQUIRE THE DIVISION OF MARINE
FISHERIES OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO
REQUEST THE ISSUANCE OF FEDERAL RULES TO ALLOW MARINE
AQUACULTURE IN FEDERAL WATERS OFF THE COAST OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 113 of the General Statutes is amended by adding a new
Article to read:

"Article 16A.

"Marine Aquaculture.

"§ 113-211. Definitions.

In addition to the definitions in G.S. 113-128 and G.S. 113-129, the following definitions
shall apply in this Article.

- (1) Marine aquaculture. – The propagation and rearing of aquatic species in
controlled or selected environments, including, but not limited to, ocean
ranching, marine hatcheries, and other deep water fish farming operations in
the coastal and ocean waters of the State and, to the extent not inconsistent
with federal law, to the limits of the United States exclusive economic zone,
as that term is defined in the Magnuson-Stevens Fishery Conservation and
Management Act, 16 U.S.C. § 1801, et seq.
- (2) Marine aquaculture facility. – Any land, structure, or other appurtenance that
is used for aquaculture, including, but not limited to, any laboratory,
hatchery, rearing pond, raceway, pen, incubator, or other equipment used in
aquaculture.
- (3) Marine aquatic species. – Any species of finfish, mollusk, crustacean, or
other aquatic invertebrate, amphibian, reptile, or aquatic plant, and
including, but not limited to, "fish" and "fishes" as defined in
G.S. 113-129(7) found exclusively or for part of its life cycle in coastal
fishing waters.

"§ 113-212. Marine Aquaculture Facility Licensing.

(a) The Marine Fisheries Commission shall, by rule, designate the species of fish,
crustaceans, and shellfish that may be produced and sold under a Marine Aquaculture
Propagation and Production Facility License as set forth in subsection (b) of this section. The
Board shall take into account all of the following factors in its designation of species:

- (1) The potential market for the species, both domestic and export.



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(2) If the species is not native to State waters or is a genetically engineered variant of a native species, the potential for genetic contamination of or undesired interbreeding with wild stocks of the species.

(3) Whether public access and use of waters of the State would be unduly impacted by the private leasing of public submerged lands and the superjacent water column necessary to support propagation or production facilities for the species, when compared to the potential economic impact of those facilities.

(b) Marine Aquaculture Propagation and Production Facility License. – The Marine Fisheries Commission may, by rule, authorize and license the operation of fish hatcheries and production facilities for species of fish designated as set forth in subsection (a) of this section. The Commission shall (i) consult with the National Marine Fisheries Service regarding appropriate measures to protect wild stocks from disease or genetic contamination and (ii) enter into memoranda of agreement with the United States Army Corps of Engineers and any other appropriate State or federal regulatory agencies regarding appropriate standards and markings for marine aquaculture structures to avoid impairment of navigation. Marine aquaculture facilities that require the use of public bottom lands underlying waters of the State or the superjacent water column will also require a lease pursuant to Article 16B of this Chapter. The Commission may prescribe standards of operation, qualifications of operators, and the conditions under which fish may be commercially reared, transported, possessed, bought, and sold. Marine Aquaculture Propagation and Production Facility Licenses issued by the Department shall be valid for a period of five years.

(c) Protection of Private Marine Aquaculture Rights. – It is unlawful for any person, other than the holder of a Marine Aquaculture Propagation and Production Facility License and associated lease under Article 16B of Chapter 113 of the General Statutes, to take or attempt to take marine species being produced under the license and associated lease from any privately leased, franchised, or deeded marine aquaculture operation without written authorization of the holder and with actual knowledge it is a marine aquaculture leased area. Actual knowledge will be presumed when the marine species are taken or attempted to be taken under the following circumstances:

(1) From within the confines of posted boundaries of the area as identified by signs, whether the whole or any part of the area is posted; or

(2) When the area has been regularly posted and identified and the person knew the area to be the subject of private marine aquaculture rights.

A violation of this subsection shall constitute a Class A1 misdemeanor, which may include a fine of not more than five thousand dollars (\$5,000). The written authorization shall include the lease number or deed reference, name and address of authorized person, date of issuance, and date of expiration, and it must be signed by the holder of the marine aquaculture rights. Identification signs shall include the lease number or deed reference and the name of the holder."

SECTION 2. Chapter 113 of the General Statutes is amended by adding a new Article to read:

"Article 16B.

"Leasing of Bottom Land and Waters of the State for Marine Aquaculture.

"§ 113-215. Legislative findings and declaration of policy.

The General Assembly finds that development of a marine aquaculture industry in the State provides increased seafood production and long-term economic and employment opportunities. The General Assembly declares that it is the policy of the State to encourage the development of private, commercial marine aquaculture in ways that are compatible with other public uses of marine and estuarine resources such as navigation, fishing, and recreation.

"§ 113-216. New leases for marine aquaculture.



(a) To increase the use of suitable areas underlying coastal fishing waters for establishment of marine aquaculture operations, the Secretary may grant marine aquaculture leases for the public bottom under the terms of this section to persons who reside in North Carolina and who have obtained a Marine Aquaculture Propagation and Production Facility License under Article 16A of this Chapter when the Secretary determines, in accordance with the Secretary's duty to conserve the marine and estuarine resources of the State, that the public interest will benefit from issuance of the lease. Suitable areas for marine aquaculture shall meet the following minimum standards:

- (1) The area leased must not contain a natural shellfish bed.
- (2) The marine aquaculture operation in the leased area will be compatible with lawful utilization by the public of other marine and estuarine resources. Other public uses which may be considered include, but are not limited to, navigation, fishing, and recreation.
- (3) The operation of a marine aquaculture operation in the leased area will not impinge upon the rights of riparian owners.
- (4) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.
- (5) The area leased must not include an area that the State Health Director has recommended be closed to shellfish harvest by reason of pollution.

(b) The Secretary may delete any part of an area proposed for lease or may condition a lease to protect the public interest with respect to the factors enumerated in subsection (a) of this section. The Secretary may not grant a new lease in an area heavily used for recreational purposes.

(c) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

(d) The map or diagram must conform to standards prescribed by the Secretary concerning accuracy of map or diagram and the amount of detail that must be shown. If, on the basis of the application information and map or diagram, the Secretary deems that granting the lease would benefit the marine aquaculture industry of North Carolina, the Secretary must order an investigation of the bottom proposed to be leased. The investigation is to be made by the Secretary or the Secretary's authorized agent to determine whether the area proposed to be leased is consistent with the standards in subsection (a) of this section, with the terms of the Marine Aquaculture Propagation and Production Facility License issued by the Department of Agriculture and Consumer Services and any other applicable standards under this Article and the rules of the Marine Fisheries Commission. In the event the Secretary finds the application inconsistent with the applicable standards, the Secretary shall deny the application or propose that a conditional lease be issued that is consistent with the applicable standards. In the event the Secretary authorizes amendment of the application, the applicant must furnish a new map or diagram meeting requisite standards showing the area proposed to be leased under the amended application. At the time of making an application for an initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

(e) The area of bottom applied for must be as compact as possible, taking into consideration the shape of the body of water, the consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a sufficient distance from any other marine aquaculture operations or shellfish leases.

(f) Within a reasonable time after receipt of an application that complies with subsection (d) of this section, the Secretary shall notify the applicant of the intended action on the lease application. If the intended action is approval of the application as submitted, or



1 approval with a modification to which the applicant agrees, the Secretary shall conduct a public
2 hearing in the county where the proposed leasehold lies. The Secretary must publish at least
3 two notices of the intention to lease in a newspaper of general circulation in the county in
4 which the proposed leasehold lies. The first publication must precede the public hearing by
5 more than 20 days; the second publication must follow the first by seven to 11 days. The notice
6 of intention to lease must contain a description of the area of the proposed leasehold sufficient
7 to establish its boundaries with reasonable ease and certainty and must also contain the date,
8 hour, and place of the hearing.

9 (g) After consideration of the public comment received and any additional
10 investigations the Secretary orders to evaluate the comments, the Secretary shall notify the
11 applicant in person or by certified or registered mail of the decision on the lease application.
12 The Secretary shall also notify persons who submitted comments at the public hearing and
13 requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's
14 decision or another person aggrieved by the decision may commence a contested case by filing
15 a petition under G.S. 150B-23 within 20 days after receiving notice of the Secretary's decision.
16 In the event the Secretary's decision is a modification to which the applicant agrees, the lease
17 applicant must furnish an amended map or diagram before the lease can be issued by the
18 Secretary.

19 (h) After a lease application is approved by the Secretary, the applicant shall submit to
20 the Secretary information sufficient to define the bounds of the area approved for leasing with
21 markers in accordance with the rules of the Commission. The information shall conform to
22 standards prescribed by the Secretary concerning accuracy of survey and the amount of detail
23 to be shown. When information is submitted, the boundaries are marked and all fees and rents
24 due in advance are paid, the Secretary shall execute the lease on forms approved by the
25 Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an
26 existing lease by reducing the area under lease or by combining contiguous leases without
27 increasing the total area leased.

28 (i) Initial leases begin upon the issuance of the lease by the Secretary and expire at
29 noon on the first day of July following the 10th anniversary of the granting of the lease.
30 Renewal leases are issued for a period of 10 years from the time of expiration of the previous
31 lease. At the time of making application for renewal of a lease, the applicant must pay a filing
32 fee of one hundred dollars (\$100.00). The rental for initial leases is ten dollars (\$10.00) per
33 acre, per year. Rental must be paid annually in advance prior to the first day of April each year.
34 Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first
35 day of July must be paid in advance at the rate of ten dollars (\$10.00) per acre per year; then,
36 on or before the first day of April next, the lessee must pay the rental for the next full year.

37 (j) Except as otherwise restricted by this Article, leaseholds granted under this section
38 are to be treated as if they were real property and are subject to all laws relating to taxation,
39 sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the
40 like. Leases properly acknowledged and probated are eligible for recordation in the same
41 manner as instruments conveying an estate in real property. Within 30 days after transfer of
42 beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner
43 must notify the Secretary of such fact. Such transfer is not valid until notice is furnished to the
44 Secretary. In the event such transferee is a nonresident, the Secretary must initiate proceedings
45 to terminate the lease.

46 (k) Upon receipt of notice by the Secretary of any of the following occurrences, the
47 Secretary must commence action to terminate the leasehold:

48 (1) Failure to pay the annual rent in advance.

49 (2) Failure to file information required by the Secretary upon annual remittance
50 of rental or filing false information on the form required to accompany the
51 annual remittance of rental.



- (3) Failure by new owner to report a transfer of beneficial ownership of all, or any portion of, or interest in the leasehold.
- (4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.
- (5) Failure to utilize the leasehold on a continuing basis for marine aquaculture purposes.
- (6) Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.
- (7) Substantial breach of compliance with the provisions of this Article, of the Marine Aquaculture Propagation and Production Facility License issued under Article 16A of this Chapter, or of rules of the Marine Fisheries Commission governing use of the leasehold.

(l) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based, and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks and by posting the notices on the Commission's Web site. The format for notice by publication shall be approved by the Attorney General.

(m) Upon final termination of any leasehold, the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers thereof, remove the abandoned structure and have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and the State may bring suit to recover the costs thereof.

(n) Every year between January 1 and February 15, the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by the Secretary for determining the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the aquaculture industry of the State and must be executed and returned by the leaseholder with the payment of the leaseholder's rental. Any leaseholder or the leaseholder's agent executing such forms for the leaseholder who knowingly makes a false statement on such forms is guilty of a Class 1 misdemeanor.

"§ 113-217. Lease of superjacent water column for marine aquaculture.

(a) To increase the productivity of marine aquaculture leases issued under G.S. 113-216, the Secretary may include in marine aquaculture leases issued under



1 G.S. 113-216 provisions to authorize use of the water column superjacent to the leased bottom
2 under the terms of this section when the Secretary determines the public interest will benefit
3 from inclusion of water column provisions.

4 (b) Suitable areas for the authorization of water column use shall meet all of the
5 following minimum standards:

- 6 (1) Aquaculture use of the leased area must not significantly impair navigation.
- 7 (2) The leased area must not be within a navigation channel marked or
8 maintained by a State or federal agency.
- 9 (3) The leased area must not be within an area traditionally used and available
10 for fishing or hunting activities incompatible with the activities proposed by
11 the leaseholder, such as trawling or seining.
- 12 (4) Aquaculture use of the leased area must not significantly interfere with the
13 exercise of riparian rights by adjacent property owners, including access to
14 navigation channels from piers or other means of access.
- 15 (5) Use of the superjacent water column is necessary for exercise of activities
16 permitted under the Marine Aquaculture Propagation and Production Facility
17 License granted by the Department under Article 16A of this Chapter.
- 18 (6) Any additional standards, established by the Commission in duly adopted
19 rules, to protect the public interest in coastal fishing waters."

20 **SECTION 3.** The Division of Marine Fisheries of the Department of
21 Environmental Quality shall do the following:

- 22 (1) Request that the Mid-Atlantic and South Atlantic Fishery Management
23 Councils develop a Fishery Management Plan for regulating offshore
24 aquaculture in federal waters offshore from the North Carolina coast.
- 25 (2) Petition the National Oceanic and Atmospheric Administration to initiate
26 rule-making proceedings to implement a comprehensive regulatory program
27 for managing the development of an environmentally sound and
28 economically sustainable aquaculture fishery in federal waters offshore from
29 the North Carolina coast.

30 The Division shall provide an interim report to the Joint Legislative Oversight
31 Committee on Agriculture and Natural and Economic Resources no later than February 1,
32 2018, regarding their progress in implementing this section and a final report on or before May
33 1, 2018, that includes the request and petition required by this section.

34 **SECTION 4.** Sections 1 and 2 of this act become effective October 1, 2017. The
35 remainder of this act is effective when it becomes law.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 410*

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

S410-AMH-6 [v.3]

Page 1 of 3

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Cook

1 moves to amend the bill on page 1, line 6, by rewriting the line to read:
2 "AQUACULTURE IN FEDERAL WATERS OFF THE COAST OF THE STATE; AND BY
3 IMPOSING ADDITIONAL TRANSPARENCY REQUIREMENTS ON THE MEMBERS
4 OF THE MARINE FISHERIES COMMISSION.";

5
6 and on page 1, line 8, by deleting Section 1 of the bill;

7
8 and on page 3, lines 4-5, by deleting the language "and who have obtained a Marine
9 Aquaculture Propagation and Production Facility License under Article 16A of this Chapter."

10
11 and on page 3, line 9, by inserting the phrase "commercially significant" between the words
12 "natural" and "shellfish";

13
14 and on page 3, line 10, by replacing the phrase "will be compatible" with "will not
15 unreasonably interfere";

16
17 and on page 3, line 15, by replacing the word "impinge" with "unreasonably interfere"

18
19 and on page 3, line 19, by inserting after that line the following language a new subdivision:

20 "(6) The marine aquaculture operation would not unreasonably interfere with
21 public access and use of waters of the State, taking into account the potential
22 economic impact of the operation.";

23
24 and on page 3, lines 22-23, by deleting the last sentence of subsection (b) and inserting the
25 following language at the end of that subsection):

26 "The Secretary shall enter into memoranda of agreement with the United States Army Corps of
27 Engineers or any other appropriate State or federal regulatory agencies to provide for
28 appropriate standards and markings for marine aquaculture structures to avoid impairment of
29 navigation.";



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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 410*

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

S410-AMH-6 [v.3]

Page 2 of 3

1 and on page 3, lines 35-37, by deleting the following language: "with the terms of the Marine
2 Aquaculture Propagation and Production Facility License issued by the Department of
3 Agriculture and Consumer Services";

4
5 and on page 3, line 49, by replacing the phrase "a reasonable time" with "60 days";

6
7 and on page 5, line 6, by rewriting the line to read "purposes, except if marine aquaculture
8 activities under the lease are suspended as part of a disease control or biosecurity plan.";

9
10 and on page 6, line 10, by inserting the words "significant levels of" before the phrase "fishing
11 and hunting activities";

12
13 and on page 6, line 19, by inserting the following language after that line:

14 **"§ 113-218. Protection of private marine aquaculture rights.**

15 Protection of Private Marine Aquaculture Rights. – It is unlawful for any person, other than
16 the holder of a lease issued under this Article, to take or attempt to take marine species being
17 produced under the license and associated lease from any privately leased, franchised, or
18 deeded marine aquaculture operation without written authorization of the holder and with
19 actual knowledge it is a marine aquaculture leased area. Actual knowledge will be presumed
20 when the marine species are taken or attempted to be taken under the following circumstances:

- 21 (1) From within the confines of posted boundaries of the area as identified by
22 signs, whether the whole or any part of the area is posted; or
23 (2) When the area has been regularly posted and identified and the person knew
24 the area to be the subject of private marine aquaculture rights.

25 A violation of this subsection shall constitute a Class A1 misdemeanor, which may include
26 a fine of not more than five thousand dollars (\$5,000). The written authorization shall include
27 the lease number or deed reference, name and address of authorized person, date of issuance,
28 and date of expiration, and it must be signed by the holder of the marine aquaculture rights.
29 Identification signs shall include the lease number or deed reference and the name of the
30 holder.";

31
32 and on page 6, line 33, by adding the following language after that line:

33 **"SECTION 3A. G.S. 143B-289.54 is amended by adding a new subsection to read:**

34 **"(m) Transparency. – The Commission shall establish official email accounts for all**
35 **Commission members. These email accounts shall be used for all electronic communications**
36 **related to the work of the Commission, and those communications shall be considered public**
37 **records under Chapter 132 of the General Statutes. Electronic communications among a**
38 **majority of the Commission shall be an "official meeting" as defined in Article 33C of Chapter**
39 **143 of the General Statutes. Failure to comply with this subsection shall be subject to**
40 **investigation by the State Ethics Commission as unethical conduct and removal under**
41 **subsection (h) of this section as misfeasance."**
42

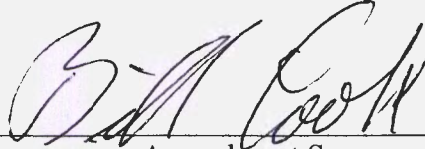
NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 410*

S410-AMH-6 [v.3]

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

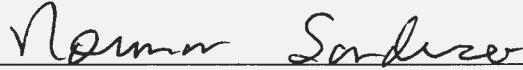
Page 3 of 3

SIGNED _____



Amendment Sponsor

SIGNED _____



Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



SENATE BILL 434: Amend Environmental Laws 2.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 20, 2017
Introduced by:	Sens. Sanderson, Cook, Wells	Prepared by:	Jeff Hudson
Analysis of:	First Edition		Jennifer McGinnis Committee Counsel

OVERVIEW: *Senate Bill 434 would make various changes to State environmental and natural resources laws.*

BILL ANALYSIS:

REPEAL YARD WASTE PERMITTING REQUIREMENTS

Under current law, 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 1(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 1(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.

Section 1(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.

LOCAL GOVERNMENT RIPARIAN BUFFER UNIFORMITY

Under current law, a local government can receive the approval of the Environmental Management Commission (EMC) to enact, implement, and enforce a local government ordinance that establishes riparian buffer requirements that exceed the requirements of State and federal law if the EMC determines that the riparian buffers are necessary for the protection of water quality.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

Senate Bill 434

Page 2

Section 2 would repeal the ability of local governments to enact, implement, and enforce ordinances that establish riparian buffer requirements that exceed the requirements of State and federal law. Section 2 would also prohibit local governments from applying for or renewing permits issued by State or federal agencies that require riparian buffers that exceed riparian buffer requirements directly imposed by State or federal law.

SHELLFISH ENTERPRISE AREAS

Section 3 would authorize the Marine Fisheries Commission (MFC) to adopt rules to provide for advanced siting and preapprovals of shellfish aquaculture leases.

MARINE FISHERIES CLARIFYING CHANGES

Current State law on shellfish aquaculture provides:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the restricted or conditionally approved classification to private beds as approved by the Secretary of Environmental Quality (Secretary).
- It is lawful to sell oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

Section 4 would make the following changes to State law on shellfish aquaculture:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the prohibited classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the prohibited, restricted, or conditionally approved classification unless the Secretary determines that it would present a risk to public health.
- It is lawful to sell fish reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

RIVER HERRING FISHERIES MANAGEMENT

Section 5 would direct the Division of Marine Fisheries (DMF) to review its Fishery Management Plan (FMP) for River Herring regarding the validity and scientific basis for the status of the species as overfished. If DMF determines that it does not have an adequate scientific basis to review the status of the species, then DMF should develop costs estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

Section 6 would authorize the Division of Coastal Management of the Department of Environmental Quality and the State Property Office to negotiate an agreement with appropriate agencies of the federal government for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division and acquired by the

Senate Bill 434

Page 3

State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund (Fund). Section 6 modifies the statutory permissible uses of the Fund for this purpose.

INVASIVE SPECIES MANAGEMENT TO PRESERVE ECOSYSTEM DIVERSITY

Section 7 would require the Wildlife Resources Commission (WRC) to issue rules establishing open seasons and manner of take requirements applicable to all counties for all invasive species that the Commission determines to be game animals or game birds. For those invasive species that the WRC finds are not game animals or game birds, the WRC must develop programs to encourage control of those species by State agencies, local governments, private landowners, hunters, and trappers. The provision would repeal any conflicting local acts.

The bill would define invasive species as all of the following:

- Brown tree snake
- Bullfrog
- Burmese python
- Coyote
- European starling
- Feral swine
- House sparrow
- Nutria
- Red fox

Current law defines: (i) "game animals" as "[b]ear, fox, rabbit, squirrel, white-tailed deer, and, except when trapped in accordance with provisions relating to fur-bearing animals, bobcat, opossum, and raccoon."; and (ii) "game birds" as "[m]igratory game birds and upland game birds."

EFFECTIVE DATE: Except as otherwise provided, the bill would become effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 434

Short Title: Amend Environmental Laws 2.

(Public)

Sponsors: Senators Sanderson, Cook, Wells (Primary Sponsors); and Brock.

Referred to: Rules and Operations of the Senate

March 29, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
LAWS.

The General Assembly of North Carolina enacts:

REPEAL YARD WASTE PERMITTING REQUIREMENTS

SECTION 1.(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 1.(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 1.(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.

LOCAL GOVERNMENT RIPARIAN BUFFER UNIFORMITY

SECTION 2.(a) The General Assembly finds the following:

(1) The State has declared certain water bodies to be nutrient sensitive due to the high levels of nitrogen, phosphorus, sediment, or any combination of those pollutants.

(2) As a means for reducing the amount of nitrogen, phosphorous, and sediment that enters these nutrient-sensitive surface waters, the State has initiated a





program to maintain existing riparian buffers that is a part of a complete and integrated regulatory scheme for the protection and improvement of water quality that may be delegated for enforcement to qualifying units of local government.

- (3) When the enforcement of the buffer program is delegated to qualifying units of local government, those units of local government should apply riparian buffer standards that do not exceed established State or federal standards in order to assure uniformity of regulation throughout the State.

SECTION 2.(b) G.S. 143-214.23A reads as rewritten:

"§ 143-214.23A. Limitations on local government riparian buffer requirements.

(a) As used in this section:

- (1) "Local government ~~ordinance~~" action" means any action by a local government carrying the effect of law approved before or after October 1, 2015, whether by ~~ordinance, ordinance, including, but not limited to, zoning, subdivision control, flood control, or water supply watershed protection ordinances,~~ comprehensive plan, policy, resolution, condition of approval imposed on an applicant for approval of a development plan, or special or conditional permit, or other measure.
- (2) "Protection of water quality" means nutrient removal, pollutant removal, stream bank protection, or protection of an endangered species as required by federal law.
- (3) "Riparian buffer area" means an area subject to a riparian buffer requirement.
- (4) "Riparian buffer requirement" means a landward setback from surface ~~waters-water bodies or any other hydrologic bodies to which a riparian~~ buffer may be applied.

(a1) The provisions of this section apply to all enacted or proposed local government actions that include or impose riparian buffer requirements violating subsection (b) of this section, even if the local government action has been approved by the Commission, the Department, or other State agency.

(b) Except as provided in this section, a local government may not enact, implement, or enforce a local government ~~ordinance-action or apply for or renew a permit issued by any State or federal agency that requires a local government action that establishes a riparian buffer requirement that exceeds riparian buffer requirements necessary to comply with or implement federal or State law or a condition of a permit, certificate, or other approval issued by a federal or State agency.~~ riparian buffer requirements directly imposed by State or federal law. This subsection shall not apply to a permit required by a federal agency as a condition of federal funding or of federal approval for a project initiated prior to the effective date of this section.

(c) Subsection (b) of this section shall not apply to any local government ~~ordinance~~ action that establishes a riparian buffer requirement enacted prior to August 1, 1997, if (i) the ~~ordinance-action~~ included findings that the requirement was imposed for purposes that include the protection of aesthetics, fish and wildlife habitat, and recreational use by maintaining water temperature, healthy tree canopy and understory, and the protection of the natural shoreline through minimization of erosion and potential chemical pollution in addition to the protection of water quality and the prevention of excess nutrient runoff, and (ii) the ~~ordinance-action~~ would permit small or temporary structures within 50 feet of the water body and docks and piers within and along the edge of the water body under certain circumstances.

(d) ~~A local government may request from the Commission the authority to enact, implement, and enforce a local government ordinance that establishes a riparian buffer requirement for the protection of water quality that exceeds riparian buffer requirements for the protection of water quality necessary to comply with or implement federal or State law or a~~



condition of a permit, certificate, or other approval issued by a federal or State agency. To do so, a local government shall submit to the Commission an application requesting this authority that includes the local government ordinance, including the riparian buffer requirement for the protection of water quality, scientific studies of the local environmental and physical conditions that support the necessity of the riparian buffer requirement for the protection of water quality, and any other information requested by the Commission. Within 90 days after the Commission receives a complete application, the Commission shall review the application and notify the local government whether the application has been approved, approved with modifications, or disapproved. The Commission shall not approve a local government ordinance that establishes a riparian buffer requirement for the protection of water quality unless the Commission finds that the scientific evidence presented by the local government supports the necessity of the riparian buffer requirement for the protection of water quality.

(d1) Local government actions violating subsection (b) of this section that are required by a permit issued by a State or federal agency, including, but not limited to, an NPDES or a permit condition imposed to meet a TMDL shall remain in place and may be enforced until the permit upon which they are based expires. Upon the expiration of the permit that is the basis for an existing local government action violating subsection (b) of this section, the existing local government action shall be unenforceable.

...."

SECTION 2.(c) This section is effective when this act becomes law.

SHELLFISH ENTERPRISE AREAS

SECTION 3.(a) G.S. 113-201 is amended by adding a new subsection to read:

"(d) The Marine Fisheries Commission may adopt rules to establish Shellfish Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue nontransferrable leases to residents of North Carolina within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to the State and be made available to other applicants."

SECTION 3.(b) G.S. 113-201.1 is amended by adding a new subdivision to read:

"(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

MARINE FISHERIES CLARIFYING CHANGES

SECTION 4.(a) G.S. 113-203 reads as rewritten:

"§ 113-203. Transplanting of oysters and clams.

...

(a2) It is unlawful to do any of the following:

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) It—Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally



1 approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit
2 issued by the Secretary that sets times during which transplant is permissible and other
3 reasonable restrictions imposed by the Secretary under either of the following circumstances:

- 4 (1) When transplanting seed clams less than 12 millimeters in their largest
5 dimension.
- 6 (2) When transplanting seed oysters less than 25 millimeters in their largest
7 dimension.

8"

9 **SECTION 4.(b)** G.S. 113-168.4(b) reads as rewritten:

10 "(b) Except as otherwise provided in this section, it is unlawful for any person licensed
11 under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken
12 from coastal fishing waters. A person licensed under this Article may sell fish taken outside the
13 territorial waters of the State or sell fish taken from coastal fishing waters under any of the
14 following circumstances:

- 15 (1) The sale is to a fish dealer licensed under G.S. 113-169.3.
- 16 (2) The sale is to the public and the seller is a licensed fish dealer under
17 G.S. 113-169.3.
- 18 (3) The sale is of ~~oysters or clams from fish reared in~~ a hatchery or aquaculture
19 operation to the holder of an Aquaculture Operation Permit, an Under Dock
20 Culture Permit, or a shellfish cultivation lease for further grow out."

21 22 **RIVER HERRING FISHERIES MANAGEMENT**

23 **SECTION 5.(a)** The Division of Marine Fisheries shall review its Fishery
24 Management Plan for river herring (blueback herring, *Alosa aestivalis*, and alewife, *Alosa*
25 *pseudoharengus*) and report no later than December 15, 2017, to the Joint Legislative Oversight
26 Committee on Agriculture and Natural and Economic Resources regarding the continuing
27 validity and scientific basis for the continued status of both species as "overfished." If the
28 Division does not have an adequate scientific basis to review the status of both species, then the
29 report should include cost estimates for the restoration of spawning and nursery area surveys
30 and age composition work for all coastal streams within the State that historically contained
31 significant river herring fisheries.

32 **SECTION 5.(b)** There is appropriated from the General Fund to North Carolina
33 Sea Grant at North Carolina State University (Sea Grant) the sum of one hundred thousand
34 dollars (\$100,000) in nonrecurring funds to be used for a study of existing science regarding the
35 current and projected future status of river herring populations in State waters. In its study, Sea
36 Grant shall evaluate the sufficiency of the scientific evidence supporting the current
37 moratorium on the river herring fishery and determine whether (i) the evidence supports a
38 continued moratorium, (ii) the evidence supports ending the moratorium, or (iii) the evidence is
39 insufficient to reach a conclusion regarding the moratorium and further study is needed. If the
40 Sea Grant determines that further study is required, Sea Grant shall include in its report a
41 research plan, time line, funding needs, and possible research partners that minimizes
42 duplication with other public and private nonprofit organizations studying river herring
43 fisheries issues in the State.

44 45 **STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL** 46 **WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS**

47 **SECTION 6.(a)** The Division of Coastal Management of the Department of
48 Environmental Quality and the State Property Office are authorized to negotiate with
49 appropriate agencies of the federal government an agreement for the State to assume
50 responsibility for acquiring dredged material easement sites appropriate for maintenance
51 dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the



Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division of Coastal Management and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund established under Part 8B of Article 21 of Chapter 143 of the General Statutes for that purpose.

SECTION 6.(b) G.S. 143-215.73F(b) is amended by adding a new subdivision to read:

"(4) To provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway north of Beaufort Inlet and south of the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government."

INVASIVE SERIES MANAGEMENT TO PRESERVE ECOSYSTEM DIVERSITY

SECTION 7.(a) G.S. 113-129(10a) is recodified as G.S. 113-129(10b).

SECTION 7.(b) G.S. 113-129, as amended by subsection (a) of this section, is amended by adding a new subdivision to read:

"(10a) Invasive species. – Any of the following:

- a. Brown tree snake (*Boiga irregularis*).
- b. Bullfrog (*Lithobates catesbeianus*).
- c. Burmese python (*Python molurus bivittatus*).
- d. Coyote (*Canis latrans*).
- e. European starling (*Sturnus vulgaris*).
- f. Feral swine (*Sus scrofa*).
- g. House sparrow (*Passer domesticus*).
- h. Nutria (*Myocastor coypus*).
- i. Red fox (*Vulpes vulpes*)."

SECTION 7.(c) Article 22 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-292.1. Control of invasive species.

(a) The General Assembly finds that invasive species present a significant threat to ecosystems, agriculture, and private property across the State and that the hunting and trapping of those species is a practical and cost-effective solution to controlling these populations.

(b) The Wildlife Resources Commission shall issue rules establishing open seasons and manner of take requirements in all 100 counties of the State for all invasive species that the Commission determines to be game animals or game birds. Seasons established under this subsection shall maximize opportunities for hunters and trappers to take invasive species.

(c) With respect to invasive species that the Wildlife Resources Commission finds are not game animals or game birds, the Commission shall develop programs to encourage control of those species by State agencies, local governments, private landowners, hunters, and trappers.

(d) Any local acts in conflict with the provisions of this section are repealed to the extent of the conflict."

GENERAL PROVISIONS



1 **SECTION 8.(a)** If any section or provision of this act is declared unconstitutional
2 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
3 than the part declared to be unconstitutional or invalid.

4 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it
5 becomes law.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434

S434-AMH-7 [v.3]

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

Page 1 of 1

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Sanderson

- 1 moves to amend the bill on page 5, lines 47 and 48, by inserting between those lines:
2 "ENERGY POLICY COUNCIL CLARIFICATION"
3 SECTION 7.1 G.S. 113B-4(a) reads as rewritten:
4 "(a) The Lieutenant Governor or the Lieutenant Governor's designee shall serve as chair
5 of the Council.""
6

SIGNED Norman Sanderson
Amendment Sponsor

SIGNED Burt Cook
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____





**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

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

S434-AMH-9 [v.5]

Page 1 of 2

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Sanderson

1 moves to amend the bill on page 5, line 48, by inserting the following new section after that
2 line:

3 **"NUTRIENT MANAGEMENT REGULATORY FRAMEWORK REVISIONS**

4 **SECTION 7A.(a)** Section 14.13.(c)(2) of S.L. 2016-94 reads as rewritten:

5 "(2) With respect to Falls Lake, the final results of its study and
6 recommendations for further action (including any statutory or regulatory
7 changes necessary to implement the recommendations) no later than
8 December 31, ~~2021~~, 2023 with interim updates no later than December 31,
9 2019, and December 31, ~~2020~~, 2021."

10 **SECTION 7A.(b)** Section 14.13.(d) of S.L. 2016-94 reads as rewritten:

11 **"SECTION 14.13.(d)** As part of the periodic review and readoption of rules
12 required by G.S. 150B-21.3A, the Environmental Management Commission shall, based on the
13 study required by subsection (c) of this section and any monitoring or modeling study
14 conducted pursuant to existing regulations as defined in this section, review the following
15 Nutrient Strategies:

16 (1) The Falls Water Supply Nutrient Strategy, 15A NCAC 2B .0275 through
17 .0282 and .0315.

18 (2) The Jordan Lake Water Supply Nutrient Strategy, 15A NCAC 2B .0263
19 through .0273 and .0311.

20 (3) Any changes to these regulations imposed by acts of the General Assembly.

21 The schedule set forth in this subsection shall modify the review and readoption
22 schedule set by the Rules Review Commission under G.S. 150B-21.3A to the extent the
23 schedules conflict. No later than December 31, 2016, the Department of Environmental Quality
24 shall report to the Environmental Review Commission a list of any other rules and any acts of
25 the General Assembly changing the rules identified in this subsection, and the Environmental
26 Management Commission's review shall include the rules identified in this section and in that
27 report. As part of its rule review process, the Environmental Management Commission shall (i)
28 hold public hearings in the upstream and downstream portions of the Falls Lake and Jordan
29 Lake river basins and subbasins and (ii) no later than December 31, 2016, convene a
30 stakeholder working group that represents all classes of users and all geographic parts of the
31 impacted river basins and subbasins and that will provide input to the Environmental
32 Management Commission regarding the revision to the Nutrient Strategies. The Environmental



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NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434

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

S434-AMH-9 [v.5]

Page 2 of 2

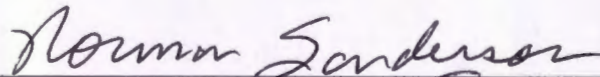
1 Management Commission shall ~~issue recommendations for revisions of the Nutrient Strategies~~
2 ~~based on its review and begin rule readoption required by G.S. 150B-21.3A no later than March~~
3 ~~15, 2019. begin rule readoption for the Jordan Lake Water Supply Nutrient Strategy no later~~
4 ~~than six months after it receives the completed study and final recommendations prepared in~~
5 ~~response to subsection (c) of this section. The Environmental Management Commission shall~~
6 ~~begin rule readoption for the Falls Water Supply Nutrient strategy on the earlier of the~~
7 ~~following: (i) upon receipt of the completed study and final recommendations prepared in~~
8 ~~response to subsection (c) of this section and any monitoring or modeling study conducted~~
9 ~~pursuant to existing regulations for nutrient management in Falls Lake; or (ii) December 31,~~
10 ~~2024. For purposes of the G.S. 150B-21.3A readoption process, the Nutrient Strategies shall be~~
11 ~~considered "necessary with substantive public interest."~~

12 **SECTION 7A.(b)** Section 14.13.(h) of S.L. 2016-94 reads as rewritten:

13 **"SECTION 14.13.(h)** The rules described below shall not take effect and are
14 subject to the review and readoption required by subsection (d) of this section:

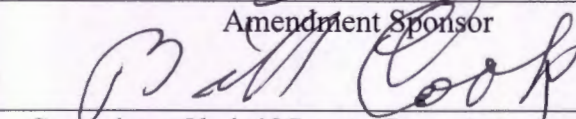
- 15 (1) With respect to the Jordan Lake rules, as defined by subdivisions (2) and (3)
16 of subsection (d) of this section, any rules with effective dates between the
17 effective date of this act and October 15, 2019.
- 18 (2) With respect to the Falls Lake rules, as defined by subdivisions (1) and (3)
19 of subsection (d) of this section, any rules with effective dates between the
20 effective date of this act and October 15, ~~2022~~2022, provided that
21 provisions of the Falls Lake rules which establish stage I reduction actions
22 and goals shall remain in effect until the Falls Lake rules, as modified under
23 subsection (d) of this section, become effective. The due dates for reduction
24 actions and goals set to be completed by December 31, 2020 and the
25 reduction actions and goals identified as Stage II in the Falls Lake rules are
26 delayed until the Falls Lake rules, as modified under subsection (d) of this
27 section, become effective."

SIGNED



Amendment Sponsor

SIGNED



Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

11/11/11
11/11/11
11/11/11



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

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

S434-ATS-3 [v.2]

Page 1 of 2

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Trade Sanderson

1 moves to amend the bill on page 3, lines 21 and 22, by inserting between those lines:

2
3 **"AMEND THE RULE FOR PROTECTION OF EXISTING BUFFERS TO EXEMPT**
4 **CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC SAFETY**

5
6 **SECTION 2.1.(a)** Definitions. – "Protection of Existing Buffers Rule" means 15A
7 NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian
8 Buffers) for purposes of this section and its implementation.

9 **SECTION 2.1.(b)** Protection of Existing Buffers Rule. – Until the effective date of
10 the revised permanent rule that the Environmental Management Commission is required to
11 adopt pursuant to subsection (d) of this section, the Commission and the Department of
12 Environmental Quality shall implement the Protection of Existing Buffers Rule, as provided in
13 subsection (c) of this section.

14 **SECTION 2.1.(c)** Implementation. – The Commission shall exempt from the
15 applicability requirements of the Protection of Existing Buffers Rule any publicly owned
16 spaces where it has been determined by the head of the local law enforcement agency with
17 jurisdiction over that area that the buffers pose a risk to public safety.

18 **SECTION 2.1.(d)** Additional Rule-Making Authority. – The Commission shall
19 adopt a rule to amend the Protection of Existing Buffers Rule consistent with subsection (c) of
20 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant
21 to this section, shall be substantively identical to the provisions of subsection (c) of this section.
22 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
23 of the General Statutes. Rules adopted pursuant to this section shall become effective as
24 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
25 provided by G.S. 150B-21.3(b2).

26 **SECTION 2.1.(e)** Sunset. – This section expires when permanent rules adopted as
27 required by subsection (d) of this section become effective."
28
29



* S 4 3 4 - A T S - 3 - V - 2 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434

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

S434-ATS-3 [v.2]

Page 2 of 2

SIGNED Norman Sanders
Amendment Sponsor

SIGNED Bill Cook
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

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

S434-AMH-11 [v.3]

Page 1 of 2

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Wells

1 moves to amend the bill on page 5, line 48, by inserting the following new section after that
2 line:

3 **"REPEAL CATAWBA BUFFER RULES**

4 **SECTION 7A.(a)** Section 7.1 of S.L. 1999-329 reads as rewritten:

5 "Section 7.1. Notwithstanding G.S. 150B-21.1(a)(2) and Section 8.6 of S.L. 1997-
6 458, the Environmental Management Commission may adopt temporary rules as provided in
7 this section to protect water quality standards and uses as required to implement basinwide
8 water quality management plans for the ~~Cape Fear, Catawba, Cape Fear~~ and Tar-Pamlico River
9 Basins pursuant to G.S. 143-214.1, 143-214.7, 143-215.3, and 143B-282. Prior to the adoption
10 of a temporary rule under this subsection, the Commission shall:

- 11 (1) Consult with persons who may be interested in the subject matter of the
12 temporary rule during the development of the text of the proposed temporary
13 rule.
- 14 (2) Publish a notice of intent to adopt a temporary rule in the North Carolina
15 Register. The notice shall set out the text of the proposed temporary rule
16 and include the name of the person to whom questions and written comment
17 on the proposed rule may be submitted. The Commission shall accept
18 written comment on the proposed temporary rule for at least 30 days after
19 the notice of intent to adopt the temporary rule is published in the North
20 Carolina Register.
- 21 (3) Hold a public hearing on the proposed temporary rule in the river basin to
22 which the proposed temporary rule applies."

23 **SECTION 7A.(b)** The Environmental Management Commission shall repeal 15A
24 NCAC 02B .0243 (Catawba River Basin: Protection and Maintenance of Existing Riparian
25 Buffers) on or before December 1, 2017. Until the effective date of the repeal of the rule
26 required pursuant to this section, the Environmental Management Commission, the Department
27 of Environmental Quality, or any other political subdivision of the State shall not implement or
28 enforce 15A NCAC 02B .0243 (Catawba River Basin: Protection and Maintenance of Existing
29 Riparian Buffers)."



* S 4 3 4 - A M H - 1 1 - V - 3 *

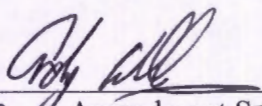
**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

S434-AMH-11 [v.3]

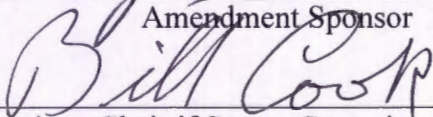
AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 2 of 2

SIGNED _____


Amendment Sponsor

SIGNED _____


Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434

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

S434-AMH-8 [v.4]

Page 1 of 1

Amends Title [NO]
First Edition

Date 4-20-2017

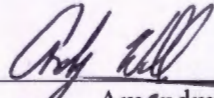
Senator Wells

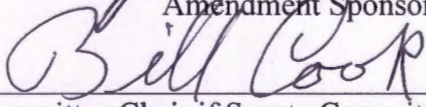
1 moves to amend the bill on page 5, line 48, by inserting the following new section after that
2 line:

3 **"COASTAL STORMWATER PROGRAM VARIANCE**

4 **SECTION 7A.** Notwithstanding S.L. 2008-211 and rules issued under the authority
5 of that act (collectively, the "Coastal Stormwater Requirements"), the director of the Division
6 of Energy, Mineral, and Land Resources of the Department of Environmental Quality shall, no
7 later than 30 days after the date this act becomes law, issue a Director's Certification in
8 fulfillment of coastal stormwater permitting requirements for any subdivision meeting all of the
9 following requirements:

- 10 (1) The subdivision's declaration of covenants was recorded with the Register of
11 Deeds in 1993.
12 (2) The development exceeds the low density impervious surface limitations
13 provided in the Coastal Stormwater Requirements, but the developer of the
14 subdivision is financially unable to bring the development into compliance
15 with the Requirements.
16 (3) The developer of the subdivision transferred the stormwater permit to the
17 homeowners association for the subdivision."
18
19

SIGNED 
Amendment Sponsor

SIGNED 
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* S 4 3 4 - A M H - 8 - V - 4 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434

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

S434-ASB-19 [v.1]

Page 1 of 1

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Cook

- 1 moves to amend the bill on page 3, line 27,
- 2 by deleting the phrase "to residents of North Carolina";
- 3
- 4 on page 4, lines 32 through 43,
- 5 by deleting the lines;
- 6
- 7 on page 5, lines 18 through 47,
- 8 by deleting the lines; and
- 9
- 10 by renumbering the bill sections accordingly.

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* S 4 3 4 - A S B - 1 9 - V - 1 *

10/1/77



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

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

S434-ARI-15 [v.2]

Page 1 of 2

Amends Title [NO]
First Edition

Date 4-20-2017

Senator Cook

1 moves to amend the bill on page 1, lines 29 and 30,
2 by inserting between those lines:

3
4 **"REPEAL PLASTIC BAG BAN**

5
6 **SECTION 1.1.(a)** Part 2G of Article 9 of Chapter 130A of the General Statutes is
7 repealed.

8 **SECTION 1.1.(b)** G.S. 130A-22 reads as rewritten:

9 "(a) The Secretary of Environmental Quality may impose an administrative penalty on a
10 person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to
11 Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a
12 continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen
13 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste.
14 The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the
15 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving
16 the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that
17 results in medical waste entering waters or lands of the State; and shall not exceed fifty
18 thousand dollars (\$50,000) per day for a second or further violation involving the disposal of
19 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
20 waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand
21 five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action
22 implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to
23 G.S. 130A-310.12(b). ~~The penalty shall not exceed one hundred dollars (\$100.00) for a first~~
24 ~~violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;~~
25 ~~and five hundred dollars (\$500.00) for each additional violation within any 12-month period for~~
26 ~~any violation of Part 2G of Article 9 of this Chapter. For violations of Part 7 of Article 9 of this~~
27 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the
28 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the
29 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person
30 fails to pay a civil penalty within 60 days after the final agency decision or court order has been
31 served on the violator, the Secretary of Environmental Quality shall request the Attorney
32 General to institute a civil action in the superior court of any county in which the violator



* S 4 3 4 - A R I - 1 5 - V - 2 *

**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 434**

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

S434-ARI-15 [v.2]

Page 2 of 2

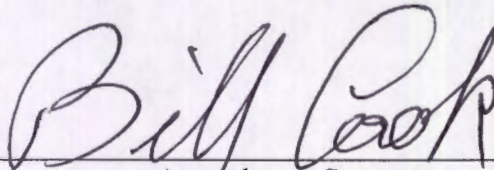
1 resides or has his or its principal place of business to recover the amount of the assessment.
2 Such civil actions must be filed within three years of the date the final agency decision or court
3 order was served on the violator.

4"

5 **SECTION 1.1.(c)** Section 13.10(c) of S.L. 2010-31 is repealed.

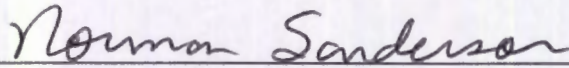
6 **SECTION 1.1.(d)** This section becomes effective July 1, 2017."
7
8
9

SIGNED



Amendment Sponsor

SIGNED



Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

VISITOR REGISTRATION SHEET

Agriculture

(Committee Name)

4-20-17

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Brooks Rainey Pearson	SECC
Tom BEAN	EDC
Matthew Storr	Riverkeeper
Melby Diggins	Sierra Club
Cassie Gamm	Sierra Club
Nancy DeSil	NC Marine Fisheries / DEQ
STEVE MURPHY	NC MARINE FISHERIES / DEQ
Whitney Kristensen	Ward & Smith
Madeline Hurley	Ward and Smith
Crystal Feldman	SA
Sarah Wolfe	MWC
JASON Watkins	DEQ - Solid Waste
Ellen Lorscheider	" "
Michael Scott	DEQ - DWM
Lind. Culpan	DEQ - DLR
TRACY DAVIS	DEQ - DENR
CHRIS SAUNDERS	NCDA & CS

Rob Taylor

NC DEQ

09-21-201



VISITOR REGISTRATION SHEET

Agriculture
(Committee Name)

4-20-17
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Tim Minter	NCHBA
Bo Heath	MVC
David McGowan	NCPC
Rob Lambert	FLA
A. Goodwin	WRC
Andy Elle	NCKM
Elizabeth Roberts	NCR
Lexi P. Hu	NCR
Rick Zechini	Williams Muller
Kathy Kingsbury	BP
Lori Ann Harris	LATA
Camryn Tug	MULT
Terry Schill	NCTA
SBull	MAA
GuarVick	Duke Energy
Sarah Collins	NCLM
Kim Siomkus	NCR LA



Agriculture
(Committee Name)

Date _____

[illegible]



Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, April 25, 2017, 12:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 249	Coyote Bounty Pilot Program.	Senator McInnis
SB 432	Delay Marine Fisheries Rule Making.	Senator Sanderson Senator Cook Senator Tillman
HB 467	Agriculture and Forestry Nuisance Remedies.	Representative Dixon Representative Davis Representative Lewis Representative J. Bell

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Tuesday, April 25, 2017

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

FAVORABLE

SB 249

Coyote Bounty Pilot Program.

Draft Number: None
Sequential Referral: State and Local Government
Recommended Referral: None
Long Title Amended: No

SB 432

Delay Marine Fisheries Rule Making.

Draft Number: None
Sequential Referral: Rules and Operations of the Senate
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comments:

Report 1 of multiple

Senator Tom McInnis will handle SB 249
Senator Norman W. Sanderson will handle SB 432



* C M R 3 3 8 - V - 1 *



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Tuesday, April 25, 2017

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

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

HB 467

Agriculture and Forestry Nuisance Remedies.

Draft Number:	H467-PCS30404-RI-18
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 2 of 2

Senator Brent Jackson will handle HB 467



* C M R 3 4 4 - V - 1 *



Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, April 25, 2017 at 12:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 12:00 PM on April 25, 2017 in Room 1027/1128 of the Legislative Building. 13 members were present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms Terry Barnhardt, Jim Hamilton, and Charles Marsalis. The chair also recognized pages Madison Galloway from Forest City, NC sponsored by Senator Hise, Sydney Lee Howell Laurinburg, NC sponsored by Senator McInnis, Sarah deForest from Hickory, NC sponsored by Senator Wells, and Derrin Mallory from Roanoke Rapids, NC sponsored by Senator Bryant.

HB 467 Agriculture and Forestry Nuisance Remedies. (Representatives Dixon, Davis, Lewis, J. Bell)

Presented by Representative Dixon. HB 467 clarifies the remedies available in private nuisance actions against agricultural and forestry operations. Senator B. Jackson set forth an amendment. Senator McInnis moved to accept the amendment. Senator B. Jackson spoke on the amendment. Representative Dixon and Senator B. Jackson responded to questions from Senators Bryant, P. Newton, Smith-Ingram, and J. Jackson. Senator Cook moved to accept the amendment and the bill as amended was back before the committee. Representative Dixon and Senator B. Jackson responded to questions on the amended bill from Senators Waddell, Chaudhuri, P. Newton, Wells, Smith-Ingram, Bryant, and J. Jackson. Mr. Andy Curliss from the NC Pork Council spoke in favor of the bill. Senator Cook moved for a vote on unfavorable as to the bill, but favorable as to the Senate committee substitute bill. The motion passed.

SB 249 Coyote Bounty Pilot Program. (Senator McInnis)

Presented by Senator McInnis. SB 249 creates a coyote tagging and bounty program in Richmond County. There being no questions from the committee, Senator Brock moved for a favorable report. The motion passed.

Senator Sanderson relinquished the chair to Senator Cook.

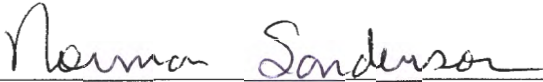
SB 432 Delay Marine Fisheries Rule Making. (Senators Sanderson, Cook, Tillman)

Senator Sanderson presented the bill. SB 432 delays action by the Marine Fisheries Commission in response to certain granted petitions for rule making until completion of the activities and final report of the collaborative shrimp trawl study and stakeholder process. Senator Sanderson responded to questions from Senator Bryant. Mr. Tom Bean from the NC Wildlife Federation spoke against the bill and Mr. Jerry Schill of the NC Fisheries Association spoke in favor of the

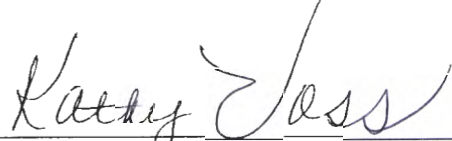


bill. There being no further discussion, Senator J. Jackson moved for a favorable report. The motion passed.

There being no further business, the meeting adjourned at 1:07 pm.



Senator Norman W. Sanderson, Chair
Presiding



Kathy Voss, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Mar 14, 2017
S.B. 249
PRINCIPAL CLERK

S

D

SENATE BILL DRS45191-MH-78 (03/07)

Short Title: Coyote Bounty Pilot Program. (Local)

Sponsors: Senator McInnis (Primary Sponsor).

Referred to:

- 1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A COYOTE TAGGING AND BOUNTY PROGRAM IN RICHMOND
3 COUNTY.
4 The General Assembly of North Carolina enacts:
5 SECTION 1. G.S. 153A-131 reads as rewritten:
6 "§ 153A-131. ~~Possession or harboring~~ Possession, harboring, or control of dangerous
7 animals.
8 A county may by ordinance regulate, restrict, or prohibit the possession or harboring of
9 animals which are dangerous to persons or property. No such ordinance shall have the effect of
10 permitting any activity or condition with respect to a wild animal which is prohibited or more
11 severely restricted by regulations of the Wildlife Resources ~~Commission~~. Commission, except that
12 the Commission shall permit a county to develop and implement a coyote tagging and bounty
13 program within the county that includes the following elements:
14 (1) The county may capture and tag, tattoo, or otherwise mark up to 10 coyotes
15 prior to releasing them. The county shall neuter any coyote captured under this
16 subdivision prior to release.
17 (2) The county or a local nonprofit organization may offer a bounty of not less than
18 five hundred dollars (\$500.00) per tagged coyote."
19 SECTION 2. This act applies to Richmond County only.
20 SECTION 3. This act is effective when it becomes law.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Mar 28, 2017
S.B. 432
PRINCIPAL CLERK

S

D

SENATE BILL DRS45280-MH-91 (03/17)

Short Title: Delay Marine Fisheries Rule Making.

(Public)

Sponsors: Senators Sanderson, Cook, and Tillman (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DELAY ACTION OF THE MARINE FISHERIES COMMISSION IN
RESPONSE TO CERTAIN GRANTED PETITIONS FOR RULE MAKING UNTIL
COMPLETION OF THE ACTIVITIES AND FINAL REPORT OF THE
COLLABORATIVE SHRIMP TRAWL GEAR STUDY AND STAKEHOLDER
PROCESS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Marine Fisheries Commission shall not propose or adopt any
rules in response to petitions for rule making granted by the Commission at its February 16,
2017, meeting with respect to (i) classification of coastal fishing waters as special secondary
nursery areas, (ii) criteria for the opening of shrimping season, or (iii) shrimp trawling gear
types or usage until all of the following occur:

(1) The collaborative shrimp gear study has been completed.

(2) The stakeholder group conducting the study has reported its findings and
recommendations to the Commission.

SECTION 1.(b) For purposes of this act, the "collaborative shrimp gear study"
refers to the stakeholder group convened under the Commission's February 2015 amendment to
the State's Shrimp Fishery Management Plan to study shrimp trawl gear in partnership with the
Division of Marine Fisheries and North Carolina Sea Grant.

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





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 467
Second Edition Engrossed 4/10/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H467-PCS30404-RI-18

Short Title: Agriculture and Forestry Nuisance Remedies.

(Public)

Sponsors:

Referred to:

March 27, 2017

A BILL TO BE ENTITLED
AN ACT TO CLARIFY THE REMEDIES AVAILABLE IN PRIVATE NUISANCE
ACTIONS AGAINST AGRICULTURAL AND FORESTRY OPERATIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 57 of Chapter 106 of the General Statutes is amended by
adding a new section to read:

**"§ 106-702. Limitations on private nuisance actions against agricultural and forestry
operations.**

(a) The compensatory damages that may be awarded to a plaintiff for a private nuisance
action where the alleged nuisance emanated from an agricultural or forestry operation shall be
as follows:

(1) If the nuisance is a permanent nuisance, compensatory damages shall be
measured by the reduction in the fair market value of the plaintiff's property
caused by the nuisance, but not to exceed the fair market value of the
property.

(2) If the nuisance is a temporary nuisance, compensatory damages shall be
limited to the diminution of the fair rental value of the plaintiff's property
caused by the nuisance.

(b) If any plaintiff or plaintiff's successor in interest brings a subsequent private
nuisance action against any agricultural or forestry operation, the combined recovery from all
such actions shall not exceed the fair market value of his or her property. This limitation
applies regardless of whether the subsequent action or actions were brought against a different
defendant than the preceding action or actions.

(c) This Article shall apply to any private nuisance claim brought against any party
based on that party's contractual or business relationship with an agricultural or forestry
operation.

(d) This Article does not apply to any cause of action brought against an agricultural or
forestry operation for negligence, trespass, personal injury, strict liability, or other cause of
action for tort liability other than nuisance, nor does this Article prohibit or limit any request
for injunctive relief or punitive damages that are otherwise available."

SECTION 2.(a) This act is effective when it becomes law and applies to causes of
action commenced or brought on or after that date.

SECTION 2.(b) 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.



* H 4 6 7 - P C S 3 0 4 0 4 - R I - 1 8 *





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 467

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

H467-ARIf-22 [v.1]

Page 1 of 1

Amends Title [NO]
Second Edition

Date _____, 2017

Senator B. Jackson

1 moves to amend the bill on page 1, line 26,
2 by rewriting that line to read:

3
4 "operation.

5 (d) This Article does not apply to any cause of action brought against an agricultural or
6 forestry operation for negligence, trespass, personal injury, strict liability or other cause of
7 action for tort liability other than nuisance, nor does this Article prohibit or limit any request
8 for injunctive relief or punitive damages that are otherwise available.";

9
10 and on page 1, lines 27 through 28,
11 by rewriting those lines to read:

12
13 "SECTION 2.(a) This act is effective when it becomes law and applies to causes of
14 action commenced or brought on or after that date."
15

SIGNED

Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 4 6 7 - A R I F - 2 2 - V - 1 *

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

April 25, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Amanda Donovan	KTS
Liz Behr	Marathon
David McGowan	NCPC
Julie Roberts	NCSEA
Amber Harris	NACC
J Goodman	COE
Jackson Stancil	June Street Consulting
Chris Saunders	NCSA + CS
Jeremy Turr	OOTG
Tommy Stevens	NCPC
JAKE PARKER	
Glennou Jaden	Vista Strategies
Jaime King Taggart	Vista Strategies
Laura Kilian	Vista Strategies
Becki Gray	John Locke Foundation
Cassie Gavin	Sierra Club
Rob Hamme	RLA



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

April 25, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
PRESTON HUNARD	NCMA
TOM BEAN	NCWF
Paul Sherman	NCFB
Brian Powell	NCCN
Grady McElmi	NCCN
Peter Daniel	connect C
Sam Cooper	connect C
Dick Galt	law off of RHC
Justin Clanton	Gouverneur
Matthew Starr	Roverkeeper
Smith	NCWFF
Susan	Pulse Energy
Erica Hlubstein	Press
Andy Miller	DFG
Tom Agodco	Vista
John Morris	Pol. of Group
LAURA PURKAR	MVC

Mona Wallace



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

April 25, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

[illegible]



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

April 25, 2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Lanni Barnhart	NC GRANGE
JEFF BARNHART	MWC
Ann	WRC
Lisa Martin	Cap. Ad
Al Rodwin	WRC
Brooks Rainey Pearson	SELC
Mary Madigan Allen	SELC
Dick Taylor	NCAS
Steve Metcalf	The Policy Group
Zane Stilwell	TSG
Jason Deans	J. Deans
Cher McDowell	KTS



[illegible]



Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, May 9, 2017, 10:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 637	Clarify Regional Water and Sewer Funds.	Representative K. Hall Representative Bert Jones Representative Blust Representative Hardister

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Tuesday, May 09, 2017

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

FAVORABLE

HB 637

Clarify Regional Water and Sewer Funds.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 1 of 1

Senator Trudy Wade will handle HB 637



* C M R 3 9 7 - V - 2 *

Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, May 9, 2017 at 10:00 AM
Room 1027/1128 of the Legislative Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00AM on May 9, 2017 in Room 1027/1128 of the Legislative Building. 12 members were present.

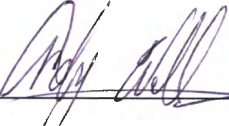
Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Hal Roach, Tom Burroughs and Billy Fritscher and Pages Afton Patterson, Raleigh, sponsored by Senator Rabon; Emma Hiott, Locust, sponsored by Senator McInnis; and Andrew Souter, Clayton, sponsored by Senator Horner.

HB 637 Clarify Regional Water and Sewer Funds (Reps. K. Hall, Bert Jones, Blust, Hardister

Rep. K. Hall presented the bill. House Bill 637 would provide additional flexibility for the use of funds appropriated for regional water and sewer projects in Rockingham and Guilford Counties. Senator Wade moved for a favorable report. Motion passed.

There being no further business, the meeting adjourned at 10:05 AM.



Senator Andy Wells, Chair Presiding



Linda Wentte, Committee Clerk





HOUSE BILL 637: Clarify Regional Water and Sewer Funds.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	May 9, 2017
Introduced by:	Reps. K. Hall, Bert Jones, Blust, Hardister	Prepared by:	Layla Cummings
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 637 would provide additional flexibility for the use of funds appropriated for regional water and sewer projects in Rockingham and Guilford Counties.*

CURRENT LAW: Section 14.20A of Session Law 2016-94, the Current Operations and Capital Improvements Appropriations Act of 2016 (2016 Appropriations Act), appropriated funds to the Division of Water Infrastructure for use on water and sewer projects upon the establishment of a Regional Water and Sewer Authority (Authority) pursuant to Article 1 of Chapter 162A of the General Statutes that included Rockingham and Guilford Counties and one or more municipalities within those counties.

The funds were to be used for interconnection and extension of water lines to participating counties and municipalities undertaken by the Authority. The funds could also be used for interconnections with municipalities that do not join the Authority if the interconnections are necessary to provide sufficient water resources to support the water system expansion needs of the Authority.

BILL ANALYSIS: House Bill 637 would allow for the funds appropriated by the 2016 Appropriations Act to be used for related water system modifications and expansion in addition to interconnection and extension of water lines. Use of the funds would be limited to water and sewer projects in Guilford and Rockingham Counties and the following municipalities within those counties: Oak Ridge, Stokesdale, Summerfield, Reidsville, Madison, and Mayodan.

The bill would allow the funds to be used in an agreement by the counties and municipalities specified by any combination of (i) interlocal agreements established pursuant to Article 20 of Chapter 160A of the General Statutes, or (ii) one or more regional water and sewer authorities established pursuant to Article 1 of Chapter 162A of the General Statutes.

Of the funds appropriated, 25% would be allocated to Guilford County and its municipalities and 75% would be allocated to Rockingham County and its municipalities.

The bill would provide that the funds would be held in reserve by the Office of State Budget and Management and the appropriation would be released when interlocal agreements are reached or upon the formation of regional water and sewer authorities. The funds not used by June 30, 2020 would revert to the General Fund.

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

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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1

HOUSE BILL 637

Short Title: Clarify Regional Water and Sewer Funds. (Public)

Sponsors: Representatives K. Hall, Bert Jones, Blust, and Hardister (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Energy and Public Utilities, if favorable, Appropriations

April 10, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE ADDITIONAL FLEXIBILITY FOR CERTAIN REGIONAL
WATER AND SEWER INFRASTRUCTURE FUNDING.

The General Assembly of North Carolina enacts:

SECTION 1. Section 14.20A of S.L. 2016-94 reads as rewritten:

"REGIONAL WATER AND SEWER AUTHORITY FUNDING

"SECTION 14.20A.(a) Of the funds appropriated to the Department of Environmental Quality, Division of Water Infrastructure, by this act, the sum of fourteen million five hundred forty-eight thousand nine hundred eighty-one dollars (\$14,548,981) shall be used ~~by the Division to fund interconnection and interconnection, extension of water lines to participating counties and municipalities undertaken by a Regional Water and Sewer Authority established pursuant to Article 1 of Chapter 162A of the General Statutes, provided that the Authority includes lines, and related water system modification and expansion involving the Counties of Rockingham and Guilford and one or more municipalities within those counties. The funds allocated by this section may also be used for one or more regional interconnections with municipalities in Rockingham or Guilford Counties that do not join the Authority described by this subsection if the interconnections are necessary to provide sufficient water resources to support the water system expansion needed to meet current and planned future needs of the Authority.~~ the municipalities of Oak Ridge, Stokesdale, Summerfield, Reidsville, Madison, and Mayodan. Of the funds allocated by this section, no more than twenty-five percent (25%) of the funds shall be used for Guilford County and may include one or more of the municipalities listed in this section located in Guilford County, and no more than seventy-five percent (75%) shall be used for Rockingham County and may include one or more of the municipalities listed in this section located in Rockingham County. The funds allocated by this section may be spent for planning, design, survey, real property acquisition, construction, repair, and any other activities necessary to improve the performance and reliability and expand the capacity and service footprint of participating water systems in Rockingham and Guilford Counties. The Counties of Rockingham and Guilford and the municipalities participating in the interconnection and extension of water lines within each county funded by this section shall agree on the use of the funds allocated by this section through any combination of (i) interlocal agreements under Article 20 of Chapter 160A of the General Statutes that specify, at a minimum, the ownership of the water lines and infrastructure funded by this section and long-term maintenance, repair, and replacement responsibility or (ii) one or more regional water and sewer authorities under Article 1 of Chapter 162A of the General Statutes.



1 "SECTION 14.20A.(b) ~~If the Regional Water Authority described by this section is~~
2 ~~formed prior to June 30, 2017, the Division of Water Infrastructure shall transfer the funds~~
3 ~~allocated by this section to the Authority for the purposes described in subsection (a) of this~~
4 ~~section. Otherwise, the funds allocated by this section shall revert to the General Fund.~~
5 ~~Notwithstanding G.S. 143C-6-23(f1)(1), G.S. 143C-6-23(f1)(1) and G.S. 143C-1-2, funds~~
6 ~~allocated to the Authority but not used by this section shall be held in reserve by the Office of~~
7 ~~State Budget and Management and the allocations to each County shall be released when the~~
8 ~~County and one or more of the municipalities specified in subsection (a) of this section reach~~
9 ~~agreement on the funds allocated to that County by this section through interlocal agreements~~
10 ~~or the formation of regional water and sewer authorities or a combination of interlocal~~
11 ~~agreements and regional water and sewer authorities. Funds not spent or encumbered by June~~
12 ~~30, 2020, shall be returned by the local governments or regional water and sewer authority to~~
13 ~~the Office of State Budget and Management and revert to the General Fund."~~

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

VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/9/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

[illegible]



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/9/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

[illegible]



Senate Appropriations on Agriculture, Natural, and Economic Resources Committee

<u>Co-Chairmen</u>	<u>Assistant</u>	<u>Telephone</u>	<u>Room Number</u>
Sen. Bill Cook	Jordan Hennessey	(919) 715-8293	1026 LB
Sen. Norman Sanderson	Kathy Voss	(919) 733-5706	1127 LB
Sen. Andy Wells	Linda Wentz	(919) 733-5856	1028 LB
<u>Members</u>			
Sen. John Alexander	Perry Wester	(919) 733-5850	625 LOB
Sen. Danny Britt, Jr.	Cindy Davis	(919) 733-5651	2117 LB
Sen. Andrew C. Brock	Judy Edwards	(919) 715-0690	310 LOB
Sen. Angela Bryant	Jacqueta Rascoe	(919) 733-5878	516 LOB
Sen. Jay Chaudhuri	Ian Shannon	(919) 715-6400	1121 LB
Sen. Cathy Dunn	Judy Chriscoe	(919) 733-5665	2113 LB
Sen. Jeff Jackson	Dylan Arant	(919) 715-8331	1104 LB
Sen. Brent Jackson	Alexander Fagg	(919) 733-5705	2022 LB
Sen. Tom McInnis	Libby Spain	(919) 733-5953	620 LOB
Sen. Wesley Meredith	Debbie Lown	(919) 733-5776	314 LOB
Sen. Paul Newton	Carlyle Weaver	(919) 733-7223	2111 LB
Sen. Ronald J. Rabin	Chandra Reed	(919) 733-5748	411 LOB
Sen. Erica Smith-Ingram	Kelby Hicks	(919) 715-3040	1118 LB
Sen. Joyce Waddell	Jyrita Moore	(919) 733-5650	1113 LB
Sen. Trudy Wade	Robert Mays	(919) 733-5856	525 LOB
Sen. Mike Woodard	Carol Resar	(919) 733-4809	518 LOB
<u>Staff</u>			
Jeff Hudson	Legislative Analysis	(919) 733-2578	545 LOB
Jennifer McGinnis	Legislative Analysis	(919) 733-2578	545 LOB
Chris Saunders	Legislative Analysis	(919) 733-2578	511 LOB
Layla Cummings	Legislative Analysis	(919) 733-2578	545 LOB
Mariah Matheson	Legislative Analysis	(919) 733-2578	545 LOB



NORTH CAROLINA GENERAL ASSEMBLY

Senate Agriculture / Environment / Natural Resources Committee 2017 – 2018 SESSION



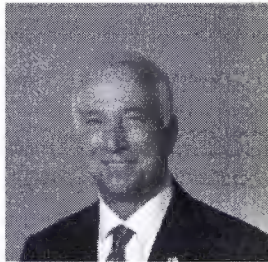
Sen. Bill Cook
Chair



Sen. Norman W. Sanderson
Chair



Sen. Andy Wells
Chair



Sen. John M. Alexander, Jr.



Sen. Danny Earl Britt, Jr.



Sen. Andrew C. Brock



Sen. Angela R. Bryant



Sen. Jay J. Chaudhuri



Sen. Cathy Dunn



Sen. Jeff Jackson



Sen. Brent Jackson



Sen. Tom McInnis



Sen. Wesley Meredith



Sen. Paul Newton



Sen. Ronald J. Rabin



Sen. Erica Smith-Ingram



Sen. Joyce Waddell



Sen. Trudy Wade



Sen. Mike Woodard



North Carolina General Assembly
Pending Senate Committee on
Agriculture/Environment/Natural Resources

2017-2018 Biennium
Leg. Day: H-104/S-103

Date: 10/04/2017
Time: 1:58:00 PM

Bill	Introducer	Short Title		Date	Latest Action
<u>H 218</u>	Turner	Prohibit Hunting From ROW/Buncombe County.	*S	05-23-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate
<u>S 163</u>	Wade	Solid Waste Amendments.	S	03-02-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 371</u> =	Brock	Building Code Regulatory Reform.	S	04-10-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Commerce and Insurance. If fav, re-ref to Rules and Operations of the Senate
<u>S 460</u> =	Jackson	Agriculture and Forestry Nuisance Remedies.	S	04-04-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate
<u>S 485</u>	Brock	Livestock and Wildlife Protection Act.	S	04-11-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Finance. If fav, re-ref to Rules and Operations of the Senate
<u>S 539</u>	Cook	Environmental Regulatory Reform Act of 2017.	S	04-13-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 624</u> =	Alexander	Outdoor Heritage Enhanced.	S	04-19-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate
<u>S 657</u> =	Harrington	Study Hexavalent Chromium in Groundwater.	S	04-13-2017	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate

'\$' indicates the bill is an appropriations bill.

A bold line indicates that the bill is an appropriations bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill



Senate Agriculture/Environment/Natural Resources Committee
Thursday, May 18, 2017, 10:00 AM
544 Legislative Office Building
Raleigh, North Carolina

AGENDA

Welcome and Opening Remarks
Senator Bill Cook

Introduction of Pages and Sergeant-at-Arms

Bills and Resolutions

House Bill 275 (No Stormwater Fees on Taxiways or Runways)
Representatives Conrad, Torbett, Presnell and Hunter

House Bill 402 (Limit Env. Liability for Certain Recyclers)
Representatives McElraft and Yarborough

House Bill 799 (Utility Billing by Lessors) – Discussion Only
Representative Bradford

Other Business

Please feel free to take the enclosed materials, but leave your folders to be used at the next meeting.

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, May 18, 2017

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

FAVORABLE

HB 402	Limit Env. Liability for Certain Recyclers.
	Draft Number: None
	Sequential Referral: Rules and Operations of the Senate
	Recommended Referral: None
	Long Title Amended: No

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

HB 275 (CS#1)	No Stormwater Fees on Taxiways or Runways.
	Draft Number: H275-PCS40574-SB-22
	Sequential Referral: Rules and Operations of the Senate
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comments:

Report 1 of 1.

Senator Tom McInnis will handle HB 402
Senator Joyce Krawiec will handle HB 275



* C M R 4 2 7 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, May 18, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00 AM on May 18, 2017 in Room 544 of the Legislative Office Building. 12 members were present.

Senator Bill Cook, Chair, presided.

Cook: Welcome. (Introduces Sergeants at Arms and Pages)

HB 275 No Stormwater Fees on Taxiways or Runways. (Representatives Conrad, Torbett, Presnell and Hunter)

Conrad: This is an economic development bill for North Carolina's aviation industry. This is for all airfields including the Department of Defense's airfields in the State.

Technical Amendment:

Sanderson: This is a technical change to address an existing statute.

Bryant: Where are you referring to?

Conrad: I believe it's just a numbering problem and changes the language.

Bryant: moves to adopt the amendment.

Amendment: Passes

(Back on Bill)

Rabin: Who checks to see that these airports qualify and abide by the law?

Conrad: It would likely be the airport administrators and local governments.

Bryant: How does this affect the counties?

Conrad: The NC County Board of Commissioners has no opposition to the bill. It would be the cities that are impacted and they are not opposed.

Bryant: Has the league taken a position?

Conrad: They are only worried about other entities that could be exempted as well.

Waddell: Are there any other cities and counties that this impacts?



Conrad: It exempts any of these 72 airports and any military airports. It provides a lot of business incentives for the aviation industry.

Waddell: Is there a reason roads are exempt already and not the runways?

Conrad: Runways and taxiways should've been exempt in the first place, so we are trying to fix this.

Alexander: Does this also include private airports?

Conrad: No.

Bryant: Was it the intention for this to be only public airports?

Conrad: This has not come up yet.

Bryant: What would need to be done to have the language meet the sponsor's intention?

Staff: We would have to look at the law and check the distinction between the two types.

Brock: There are so few private airports, we should exempt them too to make everything less complicated.

Bryant: Is this going anywhere else?

Staff: It needs to go to finance.

Bryant: We need to handle this now rather than later.

Conrad: These airports are so small that it won't make a difference.

McGinnis: 99.9% of private airports are in rural areas and we are mixing apples and oranges. This has to do with airports in municipal areas, stormwater fees aren't charged in the rural areas. This bill is good as is.

Staff: You only get this exemption if you're using it to attract businesses, so it wouldn't really apply to private airports anyway.

Darrel Norris (Greenville, President of Stormwater Association of North Carolina): We are in opposition to this bill. This is a slippery slope of exemptions. This would cause a lot of other institutions to ask for exemptions.

John Banks (Chairman of Pitt-Greenville Airport Authority, Greenville): We are losing money every year and can't afford to keep spending this money for the stormwater. It is rising and has gone up 86% in 10 years. We can't sustain this and will be out of business after 4 more years.



Jackson: Why are the fees increasing so much?

John Banks: The City sets the fees, we do not.

Rabin: Does mutilate any environmental laws on the books?

McGinnis: makes a motion to adopt the bill as amended.

Vote: Passes

HB 402 Limit Env. Liability for Certain Recyclers. (Representatives McElraft, Yarborough)

Yarborough: This bill matches federal law.

McGinnis: There was a company a few years ago that had a spillage and made the site a superfund site. They sold the batteries to a recycler and received bills into the millions of dollars. Will this bill keep this from happening again?

Yarborough: Yes, this is the intent of the bill.

Bryant: makes a motion to adopt the bill.

Vote: Passes

HB 799 Utility Billing by Lessors. (Representative Bradford) – Discussion Only

Sanderson: I'm going to ask staff to present this bill.

Staff: This bill would allow lessors to pass natural gas charges to their lessees. They can already pass them the charges for other utilities. The changes in the PCS reflect changes made in the existing statute. It also clarifies terms regarding water and electricity usage.

Bryant: Are there any objections from the tenant community?

Sanderson: No, I don't know of any.

Waddell: How do you handle subleasing situations with this bill?

Sanderson: Usually, those people have an agreement amongst themselves.

Staff: This would allow for people subleasing to divide those costs among themselves.

Waddell: Why won't they be able to terminate these services?



Sanderson: This speaks to the lessor's authority to terminate the utility. It would not allow someone to cut off utilities to someone else. It would be up to the utility company to turn off the power for nonpayment.

Wells: I would like to address this. It is basically tenant protection from having their utilities shut off.

McGinnis: Does this affect or change people living in RV Parks for situations in which multiple dwellings share a water meter.

Staff: This does not change anything regarding water. It is only natural gas related.

Jackson: So we are just adding natural gas? I would move for a favorable report.

Cook: This is for discussion only today.

Waddell: It seems to be punishing the lessor, which is why I had those questions.

Alexander: Is this for both commercial properties?

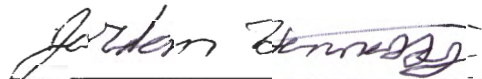
Staff: This applies for single family dwellings and apartments.

Cook: This meeting is adjourned.

The meeting adjourned at 10:47 a.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk





HOUSE BILL 275: No Stormwater Fees on Taxiways or Runways.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	May 18, 2017
Introduced by:	Reps. Conrad, Torbett, Presnell, Hunter	Prepared by:	Jeff Hudson
Analysis of:	Second Edition		Committee Counsel

OVERVIEW: *House Bill 275 would exempt military runways and taxiways from stormwater utility fees and would exempt other runways and taxiways from stormwater utility fees if the savings are used to attract business to the airport.*

CURRENT LAW: Under G.S. 153A-277 and G.S. 160A-314, counties and cities are authorized to establish and collect fees for stormwater management programs and structural and natural stormwater drainage systems. Fees may not exceed the costs of providing the program and drainage system, including any costs necessary to assure that all aspects of stormwater quality and quantity are managed in accordance with federal and State law.

BILL ANALYSIS: House Bill 275 would establish the following two exemptions for airports from stormwater utility fees:

- An exemption for military runways and taxiways from stormwater utility fees.
- A limited exemption for non-military airports from stormwater utility fees. Under this exemption, an airport would not have to pay the portion of the fee that covers the airport's runways and taxiways if the airport certifies that the savings realized from the exemption will be used to attract business to the airport. Upon request of the city or county levying the fee, the airport would be required to provide evidence that the savings were used to attract business to the airport. Any savings not used for the required purpose would have to be remitted to the city or county to be used for stormwater management.

EFFECTIVE DATE: The act would become effective January 1, 2018, and would apply to fees levied on or after that date.

Wendy Ray, counsel to House Transportation, and Trina Griffin, counsel to House Finance, substantially contributed to this summary.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 275
Committee Substitute Favorable 4/20/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H275-PCS40574-SB-22

Short Title: No Stormwater Fees on Taxiways or Runways.

(Public)

Sponsors:

Referred to:

March 8, 2017

A BILL TO BE ENTITLED
AN ACT TO EXEMPT AIRPORTS FROM PAYING A STORMWATER UTILITY FEE
LEVIED ON RUNWAYS AND TAXIWAYS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 153A-277(a1) is amended by adding two new subdivisions to
read:

"(4) A county shall not impose a stormwater utility fee on a runway or taxiway
located on military property.

(5) For all airports other than those covered by the exemption in subdivision (4)
of this subsection, a county shall list separately the amount of a stormwater
utility fee levied on airport runways and taxiways from the amount levied on
the remainder of the airport property. An airport shall be exempt from
paying a stormwater utility fee levied on its runways and taxiways. To
qualify for an exemption under this subdivision, an airport shall use the
amount of savings realized from this exemption for attracting business to the
airport and shall provide certification to the county that the savings realized
shall be used for this purpose. Except as otherwise prohibited under federal
law, and upon request, an airport shall provide the levying county with
evidence that the full amount of savings realized from the exemption
authorized under this subdivision has been used or encumbered for the
purpose set forth in this subdivision. Any amount of savings realized from
the exemption authorized under this subdivision that is not used or
encumbered for the purpose set forth in this subdivision shall be remitted to
the county to be used in accordance with applicable law governing the use of
stormwater utility fee proceeds. Savings realized from the exemption
authorized under this subdivision shall be in addition to, and not in lieu of,
any local funding provided by the county to the airport."

SECTION 2. G.S. 160A-314(a1) is amended by adding two new subdivisions to
read:

"(5) A city shall not impose a stormwater utility fee on a runway or taxiway
located on military property.

(6) For all airports other than those covered by the exemption in subdivision (5)
of this subsection, a city shall list separately the amount of a stormwater
utility fee levied on airport runways and taxiways from the amount levied on
the remainder of the airport property. An airport shall be exempt from





1 paying a stormwater utility fee levied on its runways and taxiways. To
2 qualify for an exemption under this subdivision, an airport shall use the
3 amount of savings realized from this exemption for attracting business to the
4 airport and shall provide certification to the city that the savings realized
5 shall be used for this purpose. Except as otherwise prohibited under federal
6 law, and upon request, an airport shall provide the levying city with evidence
7 that the full amount of savings realized from the exemption authorized under
8 this subdivision has been used or encumbered for the purpose set forth in
9 this subdivision. Any amount of savings realized from the exemption
10 authorized under this subdivision that is not used or encumbered for the
11 purpose set forth in this subdivision shall be remitted to the city to be used in
12 accordance with applicable law governing the use of stormwater utility fee
13 proceeds. Savings realized from the exemption authorized under this
14 subdivision shall be in addition to, and not in lieu of, any local funding
15 provided by the city to the airport."

16 **SECTION 3.** This act becomes effective January 1, 2018, and applies to fees
17 levied on or after that date.





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 275

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

H275-ASB-26 [v.1]

Page 1 of 1

Amends Title [NO]
Second Edition

Date 5-18-2017

Senator Sanderson

1 moves to amend the bill on page 1, lines 30 through 32,
2 by rewriting the lines to read:

- 3
4 ""(5) A city shall not impose a stormwater utility fee on a runway or taxiway
5 located on military property.
6 (6) For all airports other than those covered by the exemption in subdivision
7 (5)".

SIGNED Nanna Sanderson
Amendment Sponsor

SIGNED Bill Cook
Committee Chair if Senate Committee Amendment

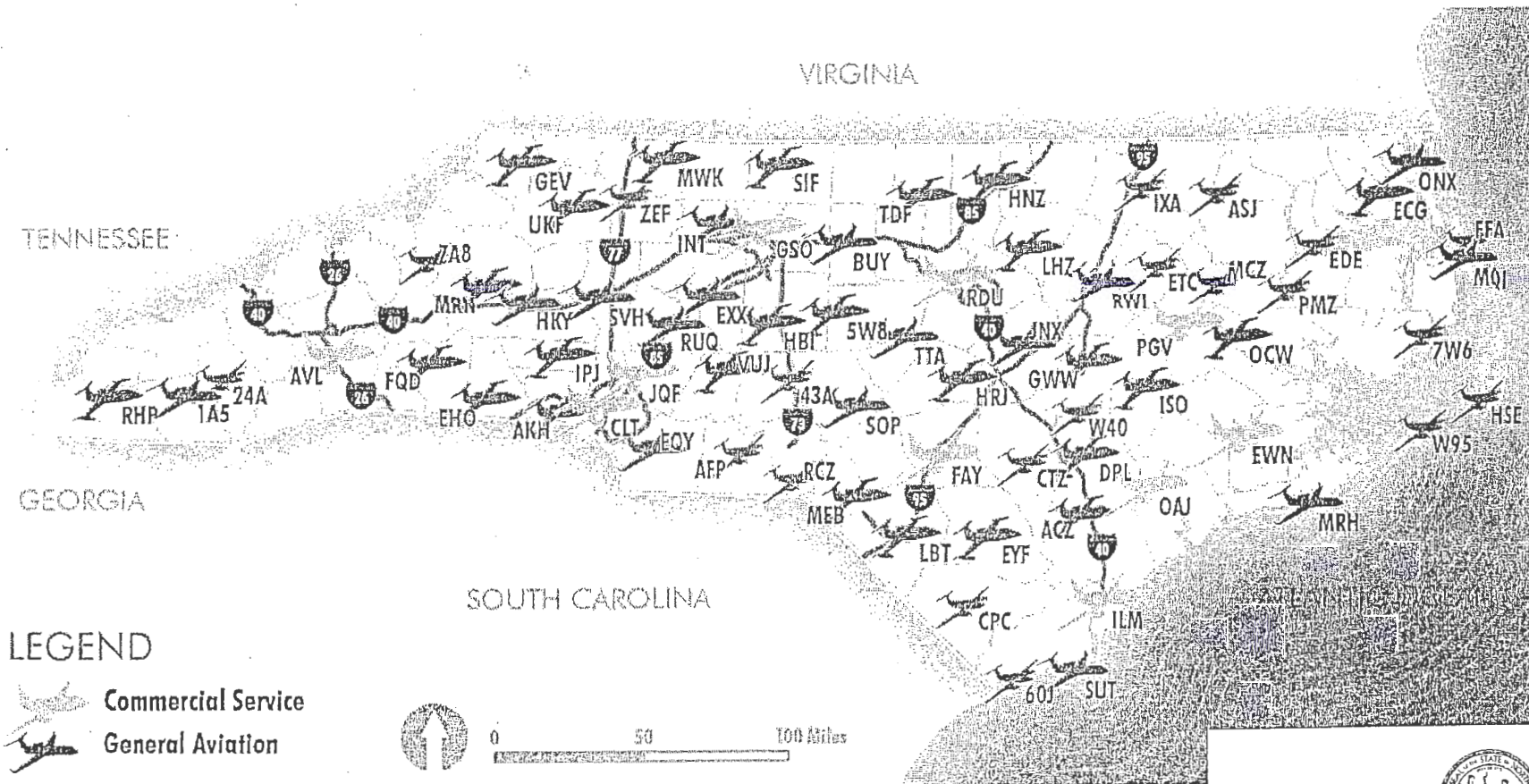
ADOPTED _____ FAILED _____ TABLED _____



* H 2 7 5 - A S B - 2 6 - V - 1 *

North Carolina's Aviation System

72 Publicly Owned Airports in North Carolina



REPRESENTATIVE DEBRA CONRAD
N.C. HOUSE OF REPRESENTATIVES
74TH DISTRICT

416B LEGISLATIVE OFFICE BUILDING
300 N. SALISBURY STREET
RALEIGH, NC 27603-5925
DEBRA.CONRAD@NCCLEG.NET
(919) 733-5787

DISTRICT ADDRESS:
4004 PEMBERTON COURT
WILMINGTON, NC 27106
CONRAD74@GMAIL.COM





HOUSE BILL 402: Limit Env. Liability for Certain Recyclers.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	May 18, 2017
Introduced by:	Reps. McElraft, Yarborough	Prepared by:	Jennifer McGinnis
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *House Bill 402 would exempt persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria.*

CURRENT LAW/BACKGROUND: The federal Superfund law (officially the Comprehensive Environmental Response, Compensation and Liability Act, "CERCLA") imposes liability on parties responsible for, in whole or in part, the presence of hazardous substances at a site. There are four classes of Superfund liable parties:

- Current owners and operators of a facility,
- Past owners and operators of a facility at the time hazardous wastes were disposed,
- Generators and parties that arranged for the disposal or transport of the hazardous substances, and
- Transporters of hazardous waste that selected the site where the hazardous substances were brought.

The Superfund Recycling Equity Act (SREA) of 1999, however, amended CERCLA to exempt certain persons who "arranged for recycling of recyclable materials" from such liability. A recycler, however, must satisfy a number of criteria, demonstrated by a preponderance of the evidence, in order to avail themselves of the liability exemption. For instance, the following conditions must exist at the time of the transaction:

- A market exists for the material.
- The party must have exercised reasonable care to determine whether a consuming facility is in compliance with all applicable environmental laws.

G.S. 130A-310.7, sometimes considered the State's "superfund" law, provides that, with limited exceptions, any person who:

- Discharges or deposits; or
- Contracts or arranges for any discharge or deposit; or

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 402

Page 2

- Accepts for discharge or deposit; or
- Transports or arranges for transport for the purpose of discharge or deposit

any hazardous substance, the result of which discharge or deposit is the existence of an inactive hazardous substance or waste disposal site, shall be considered a responsible party and liable for cleanup of the site.

BILL ANALYSIS: The bill would amend G.S. 130A-310.7 to exempt persons who arrange for recycling of recyclable materials from liability arising under State law for an inactive hazardous substance or waste disposal site involving the recyclable materials, if that person has complied with certain federal standards, requirements, and criteria set forth in the federal SREA.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 402

Short Title: Limit Env. Liability for Certain Recyclers. (Public)

Sponsors: Representatives McElraft and Yarborough (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Environment

March 20, 2017

A BILL TO BE ENTITLED
AN ACT TO GENERALLY EXEMPT PERSONS WHO ARRANGE FOR RECYCLING OF
RECYCLABLE MATERIALS FROM LIABILITY FOR HAZARDOUS SUBSTANCES
RELEASED OR THREATENED TO BE RELEASED AT A FACILITY OWNED OR
OPERATED BY ANOTHER PERSON.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-310.7 reads as rewritten:
**"§ 130A-310.7. Action for reimbursement; liability of responsible parties; notification of
completed remedial action.**

(a) Notwithstanding any other provision or rule of law, and subject only to the defenses
set forth in this subsection, any person who:

(1) Discharges or deposits; or
(2) Contracts or arranges for any discharge or deposit; or
(3) Accepts for discharge or deposit; or
(4) Transports or arranges for transport for the purpose of discharge or deposit
any hazardous substance, the result of which discharge or deposit is the existence of an inactive
hazardous substance or waste disposal site, shall be considered a responsible party. Neither an
innocent landowner who is a bona fide purchaser of the inactive hazardous substance or waste
disposal site without knowledge or without a reasonable basis for knowing that hazardous
substance or waste disposal had occurred nor a person whose interest or ownership in the
inactive hazardous substance or waste disposal site is based on or derived from a security
interest in the property shall be considered a responsible party. A responsible party shall be
directly liable to the State for any or all of the reasonably necessary expenses of developing and
implementing a remedial action program for such site. The Secretary shall bring an action for
reimbursement of the Inactive Hazardous Sites Cleanup Fund in the name of the State in the
superior court of the county in which the site is located to recover such sum and the cost of
bringing the action. The State must show that a danger to the public health or the environment
existed and that the State complied with the provisions of this Part.

(b) There shall be no liability under this section for a person who can establish by a
preponderance of the evidence that the danger to the public health or the environment caused
by the site was caused solely by:

(1) An act of God; or
(2) An act of war; or
(3) An intentional act or omission of a third party (but this defense shall not be
available if the act or omission is that of an employee or agent of the





1 defendant, or if the act or omission occurs in connection with a contractual
2 relationship with the defendant); or

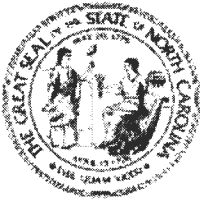
3 (4) Any combination of the above causes.

4 (b1) Notwithstanding subsection (a) of this section, there shall be no liability under this
5 section for a person who arranges for recycling of recyclable materials with respect to such
6 materials if that person has complied with all standards, requirements, and criteria set forth in
7 the Superfund Recycling Equity Act of 1999, 42 U.S.C. § 9627, as amended.

8 (c) The definitions set out in G.S. 130A-310.31(b) apply to this subsection. Any person
9 may submit a written request to the Department for a determination that a site that is subject to
10 this Part has been remediated to unrestricted use standards as provided in Part 5 of Article 9 of
11 Chapter 130A of the General Statutes. A request for a determination that a site has been
12 remediated to unrestricted use standards shall be accompanied by the fee required by
13 G.S. 130A-310.39(a)(2). If the Department determines that the site has been remediated to
14 unrestricted use standards, the Department shall issue a written notification that no further
15 remediation will be required at the site. The notification shall state that no further remediation
16 will be required at the site unless the Department later determines, based on new information or
17 information not previously provided to the Department, that the site has not been remediated to
18 unrestricted use standards or that the Department was provided with false or incomplete
19 information. Under any of those circumstances, the Department may withdraw the notification
20 and require responsible parties to remediate the site to unrestricted use standards."

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





HOUSE BILL 799: Utility Billing by Lessors.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	May 18, 2017
Introduced by:	Rep. Bradford	Prepared by:	Layla Cummings
Analysis of:	PCS to Second Edition H799-CSTS-6		Committee Counsel

OVERVIEW: *The PCS to House Bill 799 would clarify and amend the laws regarding the billing of water, electricity, and natural gas utilities services by lessors. The PCS incorporates changes made in Session Law 2017-10 regarding the billing of water or sewer service.*

BILL ANALYSIS:

Billing of Water or Sewer Service pursuant to G.S. 62-110(g): Under current law, G.S. 62-110(g) allows the billing of water or sewer services by a lessor for contiguous units pursuant to a written rental agreement.

The PCS incorporates the changes made in Session Law 2017-10, the Regulatory Reform Act of 2016-2017. The Regulatory Reform Act allows lessors of single family rental units that are not contiguous to pass through charges for water and sewer utility service to lessees. The law also directs the Utilities Commission (Commission) to develop an application that lessors must complete and allows lessors to submit one application for the authority to charge for water and sewer service for multiple lessees with a single Commission approval. The PCS also makes clarifying changes to G.S. 62-110(g) to conform terms in this section to the sections regarding the billing of electric and natural gas services.

Billing of Electric Service pursuant to G.S. 62-110(h): Under current law, G.S. 62-110(h) allows the billing of electric service by a lessor pursuant to a written rental agreement.

The PCS would clarify that the electric service may be to a single-family dwelling, residential building, or multiunit apartment complex and may be allocated when the lessor has a separate lease for each bedroom in the unit. The bill would also allow lessors to submit one application for the authority to charge for electric service for multiple lessees with a single Commission approval.

Billing of Natural Gas Service pursuant to G.S. 62-110(i): The PCS would create a new subsection, G.S. 62-110(i), to allow the billing of natural gas service by a lessor similar to the ability to bill for water and sewer service and electric service in the preceding sections pursuant to a written rental agreement.

The PCS would allow the lessor to divide the natural gas service bill among all lessees in each unit and send one bill to each lessee and requires the disclosure of certain information on the bill to the lessee. The PCS would also direct the Commission to develop an application that lessors must complete, and will allow lessors to submit one application for the authority to charge for natural gas service for multiple lessees with a single Commission approval.

EFFECTIVE DATE: This act would become effective when it becomes law.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 799
Committee Substitute Favorable 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H799-CSTS-6 [v.5]
05/17/2017 5:27:50 PM

Short Title: Utility Billing by Lessors.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO ALLOW FOR LANDLORDS TO CHARGE INDIVIDUAL TENANTS FOR
SHARED COST OF NATURAL GAS SERVICE PROVIDED TO LEASED PREMISES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-42.1 reads as rewritten:

"§ 42-42.1. ~~Water and electricity~~ **Water, electricity, and natural gas conservation.**

(a) For the purpose of encouraging ~~water and electricity~~ water, electricity, and natural gas conservation, pursuant to a written rental agreement, a ~~landlord~~-lessor may charge for the cost of providing water or sewer service to ~~tenants~~-lessees pursuant to G.S. 62-110(g) or G.S. 62-110(g), electric service pursuant to ~~G.S. 62-110(h)~~ G.S. 62-110(h), or natural gas service pursuant to G.S. 62-110(i).

(b) The ~~landlord~~-lessor may not disconnect or terminate the ~~tenant's~~-lessee's electric service or service, water or sewer services-services, or natural gas service due to the ~~tenant's~~ lessee's nonpayment of the amount due for electric service or service, water or sewer services-services, or natural gas service."

SECTION 2. G.S. 62-110 reads as rewritten:

"§ 62-110. **Certificate of convenience and necessity.**

...

(g) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, for the purpose of encouraging water conservation, the Commission may, consistent with the public interest, adopt procedures that allow a lessor to charge for the costs of providing water or sewer service to persons who occupy the leased premises. The following provisions shall apply:

...

(1a) If the leased premises are contiguous dwelling units built prior to 1989, and the lessor determines that the measurement of the ~~tenant's~~-lessee's total water usage is impractical or not economical, the lessor may allocate the cost for water and sewer service to the ~~tenant~~-lessee using equipment that measures the ~~tenant's~~-lessee's hot water usage. In that case, each ~~tenant~~-lessee shall be billed a percentage of the ~~landlord's~~-lessor's water and sewer costs for water usage in the dwelling units based upon the hot water used in the ~~tenant's~~ lessee's dwelling unit. The percentage of total water usage allocated for each dwelling unit shall be equal to that dwelling unit's individually submetered hot water usage divided by all submetered hot water usage in all dwelling



units. The following conditions apply to billing for water and sewer service under this subdivision:

- a. A lessor shall not utilize a ratio utility billing system or other allocation billing system that does not rely on individually submetered hot water usage to determine the allocation of water and sewer costs.
- b. The lessor shall not include in a ~~tenant's~~ lessee's bill the cost of water and sewer service used in common areas or water loss due to leaks in the lessor's water mains. A lessor shall not bill or attempt to collect for excess water usage resulting from a plumbing malfunction or other condition that is not known to the ~~tenant~~ lessee or that has been reported to the lessor.
- c. All equipment used to measure water usage shall comply with guidelines promulgated by the American Water Works Association.
- d. The lessor shall maintain records for a minimum of 12 months that demonstrate how each ~~tenant's~~ lessee's allocated costs were calculated for water and sewer service. Upon advanced written notice to the lessor, a ~~tenant~~ lessee may inspect the records during reasonable business hours.
- e. Bills for water and sewer service sent by the lessor to the ~~tenant~~ lessee shall contain all the following information:
 1. The amount of water and sewer services allocated to the ~~tenant~~ lessee during the billing period.
 2. The method used to determine the amount of water and sewer services allocated to the ~~tenant~~ lessee.
 3. Beginning and ending dates for the billing period.
 4. The past-due date, which shall not be less than 25 days after the bill is mailed.
 5. A local or toll-free telephone number and address that the ~~tenant~~ lessee can use to obtain more information about the bill.

(2) The lessor may charge a reasonable administrative fee for providing water or sewer service not to exceed the maximum administrative fee authorized by the Commission.

(3) The Commission shall adopt rules to implement this subsection.

(4) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service. The form shall include all of the following:

- a. A description of the applicant and the property to be served.
- b. A description of the proposed billing method and billing statements.
- c. The schedule of rates charged to the applicant by the supplier.
- d. The schedule of rates the applicant proposes to charge the applicant's customers.
- e. The administrative fee proposed to be charged by the applicant.
- f. The name of and contact information for the applicant and its agents.
- g. The name of and contact information for the supplying water or sewer system.
- h. Any additional information that the Commission may require.

(4a) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service at single-family ~~homes~~ dwellings that allows the applicant to serve multiple ~~homes~~ dwellings in the

~~State~~ State, subject to ~~single Commission approval~~ an approval by the Commission. The form shall include all of the following:

- a. A description of the applicant and a listing of the address of all the properties to be served, ~~which shall be updated annually with the Commission.~~ An updated listing of addresses served by the applicant shall be provided to the Commission annually.
- b. A description of the proposed billing method and billing statements.
- c. The administrative fee proposed to be charged by the applicant.
- d. The name and contact information for the applicant and its agents.
- e. Any additional information the Commission may require.

(5) The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved.

(6) A provider of water or sewer service under this subsection may increase the rate for service so long as the rate does not exceed the unit consumption rate charged by the supplier of the service. A provider of water or sewer service under this subsection may change the administrative fee so long as the administrative fee does not exceed the maximum administrative fee authorized by the Commission. In order to change the rate or administrative fee, the provider shall file a notice of revised schedule of rates and fees with the Commission. The Commission may prescribe the form by which the provider files a notice of a revised schedule of rates and fees under this subsection. The form shall include all of the following:

- a. The current schedule of the unit consumption rates charged by the provider.
- b. The schedule of rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers.
- c. The schedule of the unit consumption rates proposed to be charged by the provider.
- d. The current administrative fee charged by the provider, if applicable.
- e. The administrative fee proposed to be charged by the provider.

(7) A notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective upon 14 days notice to the Commission, unless otherwise suspended or disapproved by order issued within 14 days after filing.

(8) Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates that may be charged for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water or sewer services and their customers under any other provision of law.

(9) A provider of water or sewer service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36 or to furnish a bond pursuant to G.S. 62-110.3.

(h) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of a single-family dwelling, residential building-building, or multiunit apartment complex that has individually metered units for electric service in the lessor's name to charge for the actual costs of providing electric service to

each ~~tenant when the lessor has a separate lease for each bedroom in the unit.~~lessee. The following provisions shall apply to the charges authorized under this subsection:

- (1) The lessor shall equally divide the actual amount of the individual electric service bill for a unit among all the ~~tenants-lessees~~ in the unit and shall send one bill to each ~~tenant-lessee.~~ The amount charged shall be prorated when a ~~tenant-lessee~~ has not leased the unit for the same number of days as the other ~~tenants-lessees~~ in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of electricity from any other unit or common area in a ~~tenant's-lessee's~~ bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a ~~tenant-lessee.~~
- (2) A lessor who charges for electric service under this subsection is solely responsible for the prompt payment of all bills rendered by the electric utility providing service to the ~~residential building or complex leased premises~~ and is the customer of the electric utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of electric service to retail customers of the utility.
- (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each ~~tenant's-lessee's~~ allocated costs were calculated for electric service. A ~~tenant-lessee~~ may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.
- (4) Bills for electric service sent by the lessor to the ~~tenant-lessee~~ shall contain all of the following information:
 - a. ~~The~~ When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the electric supplier for the unit as a whole and the amount of charges allocated to the ~~tenant-lessee~~ during the billing period.
 - b. The name of the electric power supplier providing electric service to the ~~unit-leased premises.~~
 - c. Beginning and ending dates for the usage period and, if provided by the electric supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the ~~tenant-lessee.~~
 - e. A local or toll-free telephone number and address of the lessor that the ~~tenant-lessee~~ can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the ~~tenant's-lessee's~~ right to address questions about the bill to the lessor and the ~~tenant's-lessee's~~ right to file a complaint with, or otherwise seek recourse from, the Commission if the ~~tenant-lessee~~ cannot resolve an electric service billing dispute with the lessor.
- (5) The Commission shall develop an application that ~~a lessor-lessors~~ must submit for Commission approval to charge for electric service as provided in this section. The form shall include all of the following:
 - a. A description of the lessor and the property to be served.

- b. A description of the proposed billing method and billing statements.
 - c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
 - d. The name of and contact information for the lessor and the lessor's agents.
 - e. The name of and contact information for the supplier of electric service to the lessor's rental property.
 - f. A copy of the lease forms used by the lessor for ~~tenants~~ lessees who are billed for electric service pursuant to this subsection.
 - g. Any additional information that the Commission may require.
- (6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.
- (7) A lessor who charges for electric service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.
- (7a) An applicant may submit for authority to charge for electric service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.
- (8) The Commission shall adopt rules to implement the provisions of this subsection.
- (i) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of single-family dwelling, a residential building, or multiunit apartment complex that has individually metered units for natural gas service in the lessor's name to charge for the actual costs of providing natural gas service to each lessee. The following provisions shall apply to the charges authorized under this subsection:
- (1) The lessor shall equally divide the actual amount of the individual natural gas service bill for a unit among all the lessees in the unit and shall send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of natural gas service from any other unit or common area in a lessee's bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a lessee.
 - (2) A lessor who charges for natural gas service under this subsection is solely responsible for the prompt payment of all bills rendered by the natural gas utility providing service to the leased premises and is the customer of the natural gas utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of natural gas service to retail customers of the utility.
 - (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each lessee's allocated costs were calculated for natural gas service. A lessee may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.

- (4) Bills for natural gas service sent by the lessor to the lessee shall contain all of the following information:
- a. When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the natural gas supplier for the unit as a whole and the amount of charges allocated to the lessee during the billing period.
 - b. The name of the natural gas supplier providing natural gas service to the leased premises.
 - c. Beginning and ending dates for the usage period and, if provided by the natural gas supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the lessee.
 - e. A local or toll-free telephone number and address that the lessee can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the lessee's right to address questions about the bill to the lessor and the lessee's right to file a complaint with, or otherwise seek recourse from, the Commission if the lessee cannot resolve a natural gas service billing dispute with the lessor.
- (5) The Commission shall develop an application that lessors must submit for Commission approval to charge for natural gas service as provided in this section. The form shall include all of the following:
- a. A description of the lessor and the property to be served.
 - b. A description of the proposed billing method and billing statements.
 - c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
 - d. The name of and contact information for the lessor and the lessor's agents.
 - e. The name of and contact information for the supplier of natural gas service to the lessor's rental property.
 - f. A copy of the lease forms used by the lessor for lessees who are billed for natural gas service pursuant to this subsection.
 - g. Any additional information that the Commission may require.
- (6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.
- (7) A lessor who charges for natural gas service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.
- (7a) An applicant may submit for authority to charge for natural gas service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.
- (8) The Commission shall adopt rules to implement the provisions of this subsection."

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



Ag/Nat Resources

May 18, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tom Bean	EDF
Tim Martin	NCHA
Guanhua	Duke Energy
Fred Baggett	High Point
Resha Fortson	SEANC
Brooks Rainey Pearson	SELC
Cassie Garvin	Sierra Club
Will Culpeper	MVA
Matthew Starr	Riverkeeper
Patrick Buffkin	NCUC
David Draz	Public Staff - NCUC
Dianna Downey	Public Staff - NCUC
Magnolia Allen	SELC
Chris Broughton	MWC
Peter Daniel	Connect C
John Cooper	connect C

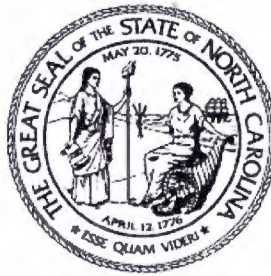


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Ag/Nat Resources

May 18, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Elizabeth Biser	Brookly Pion
Chris McClure	" "
Ed Turlington	" "
Doug Lassiter	NCSTA
Jay Stem	NCAA
Tammy Stevens	NCPC
Brandon Hostman	NCPC
Ashton Godwin	WRC
Sharon Warren	NCAAA
Mike Eadsman	NCHSTA
W. Gardner Lipp	PPAB
Yankee Cornett	NCCBSA
JOHN GOODMAN	CCC
Penny Kopp	ZOG
Sean Ostrom	Fairview
MICHAEL TORRES	NCHMA
John Banks	Pitt Greenville Airport
Daniel Radford	NCFB





Senate Committee
On
Ag/Nat & Econ Resources

May 18, 2017

Room 544

10:00 AM

Senate Sergeant at Arms

Terry Edmundson

LARRY ~~Terry~~ Hancock

Frances Patterson



Senate Pages Attending

COMMITTEE: Agriculture ... ROOM: 544
DATE: 5-18 TIME: 10^{AM}

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

	Page Name	Hometown	Sponsoring Senator
1.	Chloe deBeus	Candler	Van Duyen
2.	Sarah Childs	New Bern	Sanderson
3.	Holly Hart	Mooreville	Brock
4.	Michael O'Neil	Statesville	Brock
5.	Avalon Warren	Dallas	Curtis
6.	Julia Daniel	Morganton	Sen. Daniel
7.			
8.			

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





Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 24, 2017, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 799	Utility Billing by Lessors.	Representative Bradford
SB 615	North Carolina Farm Act of 2017. FOR DISCUSSION ONLY!	Senator B. Jackson Senator Sanderson Senator Brock

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, May 24, 2017

Senator Sanderson,
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 799 (CS#1)	Utility Billing by Lessors.	
	Draft Number:	H799-PCS40583-TS-6
	Sequential Referral:	Rules and Operations of the Senate
	Recommended Referral:	None
	Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 1 of 1

Senator Norman W. Sanderson will handle HB 799



* C M R 4 4 4 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 24, 2017 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00 AM on May 24, 2017 in Room 1027/1128 of the Legislative Building. 14 members were present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms Tom Burroughs, and Frances Patterson. The chair also recognized pages Weston Cregar, and Bryson Rose sponsored by Senator P. Newton, Jane Rudolph sponsored by Senator Curtis, and Andrew Faircloth, Jonathan Haycox, and Luke Richardson sponsored by Senator Tarte.

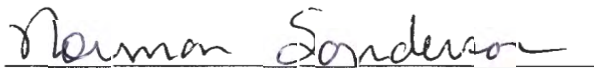
HB 799 Utility Billing by Lessors. (Representative Bradford)

Presented by Representative Bradford. HB 799 allows for landlords to charge individual tenants for shared cost of natural gas service provided to leased premises. Representative Bradford fielded questions from Senators Alexander, Waddell, Rabin, and Bryant. There being no further discussion, Senator Cook motioned for unfavorable as to bill but favorable as to committee substitute. The motion passed.

SB 615 North Carolina Farm Act of 2017. (Senators B. Jackson, Sanderson, Brock)

Presented by B. Jackson. SB 615 amends certain laws governing agricultural matters. This bill was presented before the committee for discussion only. Senator B. Jackson and staff responded to questions from Senators Woodard, Alexander, McInnis, Bryant, Chaudhuri, Wade, and Waddell. There was no public comment.

There being no further business, the meeting adjourned at 9:59 am.



Senator Norman W. Sanderson, Chair
Presiding


Kathy Voss, Committee Clerk

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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 799
Committee Substitute Favorable 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H799-PCS40583-TS-6

Short Title: Utility Billing by Lessors.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO ALLOW FOR LANDLORDS TO CHARGE INDIVIDUAL TENANTS FOR
SHARED COST OF NATURAL GAS SERVICE PROVIDED TO LEASED PREMISES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 42-42.1 reads as rewritten:

"§ 42-42.1. ~~Water and electricity~~ Water, electricity, and natural gas conservation.

(a) For the purpose of encouraging ~~water and electricity~~ water, electricity, and natural gas conservation, pursuant to a written rental agreement, a ~~landlord-landlord~~ landlord-landlord may charge for the cost of providing water or sewer service to ~~tenants-lessees~~ tenants-lessees pursuant to ~~G.S. 62-110(g) or G.S. 62-110(g)~~, electric service pursuant to G.S. 62-110(h), G.S. 62-110(h), or natural gas service pursuant to G.S. 62-110(i).

(b) The ~~landlord-landlord~~ landlord-landlord may not disconnect or terminate the ~~tenant's-lessee's~~ tenant's-lessee's electric ~~service or service~~, water or sewer services-services, or natural gas service due to the ~~tenant's~~ tenant's lessee's nonpayment of the amount due for electric ~~service or service~~, water or sewer services-services, or natural gas service."

SECTION 2. G.S. 62-110 reads as rewritten:

"§ 62-110. Certificate of convenience and necessity.

...

(g) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, for the purpose of encouraging water conservation, the Commission may, consistent with the public interest, adopt procedures that allow a lessor to charge for the costs of providing water or sewer service to persons who occupy the leased premises. The following provisions shall apply:

...

(1a) If the leased premises are contiguous dwelling units built prior to 1989, and the lessor determines that the measurement of the ~~tenant's-lessee's~~ tenant's-lessee's total water usage is impractical or not economical, the lessor may allocate the cost for water and sewer service to the ~~tenant-lessee~~ tenant-lessee using equipment that measures the ~~tenant's-lessee's~~ tenant's-lessee's hot water usage. In that case, each ~~tenant-lessee~~ tenant-lessee shall be billed a percentage of the ~~landlord's-landlord's~~ landlord's-landlord's water and sewer costs for water usage in the dwelling units based upon the hot water used in the ~~tenant's~~ tenant's lessee's dwelling unit. The percentage of total water usage allocated for each dwelling unit shall be equal to that dwelling unit's individually submetered hot water usage divided by all submetered hot water usage in all dwelling



units. The following conditions apply to billing for water and sewer service under this subdivision:

- a. A lessor shall not utilize a ratio utility billing system or other allocation billing system that does not rely on individually submetered hot water usage to determine the allocation of water and sewer costs.
- b. The lessor shall not include in a ~~tenant's~~ lessee's bill the cost of water and sewer service used in common areas or water loss due to leaks in the lessor's water mains. A lessor shall not bill or attempt to collect for excess water usage resulting from a plumbing malfunction or other condition that is not known to the ~~tenant~~ lessee or that has been reported to the lessor.
- c. All equipment used to measure water usage shall comply with guidelines promulgated by the American Water Works Association.
- d. The lessor shall maintain records for a minimum of 12 months that demonstrate how each ~~tenant's~~ lessee's allocated costs were calculated for water and sewer service. Upon advanced written notice to the lessor, a ~~tenant~~ lessee may inspect the records during reasonable business hours.
- e. Bills for water and sewer service sent by the lessor to the ~~tenant~~ lessee shall contain all the following information:
 1. The amount of water and sewer services allocated to the ~~tenant~~ lessee during the billing period.
 2. The method used to determine the amount of water and sewer services allocated to the ~~tenant~~ lessee.
 3. Beginning and ending dates for the billing period.
 4. The past-due date, which shall not be less than 25 days after the bill is mailed.
 5. A local or toll-free telephone number and address that the ~~tenant~~ lessee can use to obtain more information about the bill.

(2) The lessor may charge a reasonable administrative fee for providing water or sewer service not to exceed the maximum administrative fee authorized by the Commission.

(3) The Commission shall adopt rules to implement this subsection.

(4) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service. The form shall include all of the following:

- a. A description of the applicant and the property to be served.
- b. A description of the proposed billing method and billing statements.
- c. The schedule of rates charged to the applicant by the supplier.
- d. The schedule of rates the applicant proposes to charge the applicant's customers.
- e. The administrative fee proposed to be charged by the applicant.
- f. The name of and contact information for the applicant and its agents.
- g. The name of and contact information for the supplying water or sewer system.
- h. Any additional information that the Commission may require.

(4a) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service at single-family ~~homes~~ homes dwellings that allows the applicant to serve multiple ~~homes~~ homes dwellings in the

~~State~~ State, subject to ~~single Commission approval~~ an approval by the Commission. The form shall include all of the following:

- a. A description of the applicant and a listing of the address of all the properties to be served, ~~which shall be updated annually with the Commission.~~ served. An updated listing of addresses served by the applicant shall be provided to the Commission annually.
- b. A description of the proposed billing method and billing statements.
- c. The administrative fee proposed to be charged by the applicant.
- d. The name and contact information for the applicant and its agents.
- e. Any additional information the Commission may require.

(5) The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved.

(6) A provider of water or sewer service under this subsection may increase the rate for service so long as the rate does not exceed the unit consumption rate charged by the supplier of the service. A provider of water or sewer service under this subsection may change the administrative fee so long as the administrative fee does not exceed the maximum administrative fee authorized by the Commission. In order to change the rate or administrative fee, the provider shall file a notice of revised schedule of rates and fees with the Commission. The Commission may prescribe the form by which the provider files a notice of a revised schedule of rates and fees under this subsection. The form shall include all of the following:

- a. The current schedule of the unit consumption rates charged by the provider.
- b. The schedule of rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers.
- c. The schedule of the unit consumption rates proposed to be charged by the provider.
- d. The current administrative fee charged by the provider, if applicable.
- e. The administrative fee proposed to be charged by the provider.

(7) A notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective upon 14 days notice to the Commission, unless otherwise suspended or disapproved by order issued within 14 days after filing.

(8) Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates that may be charged for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water or sewer services and their customers under any other provision of law.

(9) A provider of water or sewer service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36 or to furnish a bond pursuant to G.S. 62-110.3.

(h) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of a single-family dwelling, residential building-building, or multiunit apartment complex that has individually metered units for electric service in the lessor's name to charge for the actual costs of providing electric service to

each ~~tenant when the lessor has a separate lease for each bedroom in the unit.~~lessee. The following provisions shall apply to the charges authorized under this subsection:

- (1) The lessor shall equally divide the actual amount of the individual electric service bill for a unit among all the ~~tenants-lessees~~ in the unit and shall send one bill to each ~~tenant-lessee~~. The amount charged shall be prorated when a ~~tenant-lessee~~ has not leased the unit for the same number of days as the other ~~tenants-lessees~~ in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of electricity from any other unit or common area in a ~~tenant's-lessee's~~ bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a ~~tenant-lessee~~.
- (2) A lessor who charges for electric service under this subsection is solely responsible for the prompt payment of all bills rendered by the electric utility providing service to the ~~residential building or complex-leased premises~~ and is the customer of the electric utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of electric service to retail customers of the utility.
- (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each ~~tenant's-lessee's~~ allocated costs were calculated for electric service. A ~~tenant-lessee~~ may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.
- (4) Bills for electric service sent by the lessor to the ~~tenant-lessee~~ shall contain all of the following information:
 - a. ~~The~~ When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the electric supplier for the unit as a whole and the amount of charges allocated to the ~~tenant-lessee~~ during the billing period.
 - b. The name of the electric power supplier providing electric service to the ~~unit-leased premises~~.
 - c. Beginning and ending dates for the usage period and, if provided by the electric supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the ~~tenant-lessee~~.
 - e. A local or toll-free telephone number and address of the lessor that the ~~tenant-lessee~~ can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the ~~tenant's-lessee's~~ right to address questions about the bill to the lessor and the ~~tenant's-lessee's~~ right to file a complaint with, or otherwise seek recourse from, the Commission if the ~~tenant-lessee~~ cannot resolve an electric service billing dispute with the lessor.
- (5) The Commission shall develop an application that ~~a lessor-lessors~~ must submit for Commission approval to charge for electric service as provided in this section. The form shall include all of the following:
 - a. A description of the lessor and the property to be served.

- b. A description of the proposed billing method and billing statements.
 - c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
 - d. The name of and contact information for the lessor and the lessor's agents.
 - e. The name of and contact information for the supplier of electric service to the lessor's rental property.
 - f. A copy of the lease forms used by the lessor for ~~tenants~~ lessees who are billed for electric service pursuant to this subsection.
 - g. Any additional information that the Commission may require.
- (6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.
- (7) A lessor who charges for electric service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.
- (7a) An applicant may submit for authority to charge for electric service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.
- (8) The Commission shall adopt rules to implement the provisions of this subsection.
- (i) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of single-family dwelling, a residential building, or multiunit apartment complex that has individually metered units for natural gas service in the lessor's name to charge for the actual costs of providing natural gas service to each lessee. The following provisions shall apply to the charges authorized under this subsection:
- (1) The lessor shall equally divide the actual amount of the individual natural gas service bill for a unit among all the lessees in the unit and shall send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of natural gas service from any other unit or common area in a lessee's bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a lessee.
 - (2) A lessor who charges for natural gas service under this subsection is solely responsible for the prompt payment of all bills rendered by the natural gas utility providing service to the leased premises and is the customer of the natural gas utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of natural gas service to retail customers of the utility.
 - (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each lessee's allocated costs were calculated for natural gas service. A lessee may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.

- 1 (4) Bills for natural gas service sent by the lessor to the lessee shall contain all
2 of the following information:
3 a. When the lessor of a residential building or multiunit apartment
4 complex has a separate lease for each bedroom in the unit, the bill
5 charged by the natural gas supplier for the unit as a whole and the
6 amount of charges allocated to the lessee during the billing period.
7 b. The name of the natural gas supplier providing natural gas service to
8 the leased premises.
9 c. Beginning and ending dates for the usage period and, if provided by
10 the natural gas supplier, the date the meter was read for that usage
11 period.
12 d. The past-due date, which shall not be less than 25 days after the bill
13 is mailed to the lessee.
14 e. A local or toll-free telephone number and address that the lessee can
15 use to obtain more information about the bill.
16 f. The amount of any administrative fee and late fee approved by the
17 Commission and included in the bill.
18 g. A statement of the lessee's right to address questions about the bill to
19 the lessor and the lessee's right to file a complaint with, or otherwise
20 seek recourse from, the Commission if the lessee cannot resolve a
21 natural gas service billing dispute with the lessor.
22 (5) The Commission shall develop an application that lessors must submit for
23 Commission approval to charge for natural gas service as provided in this
24 section. The form shall include all of the following:
25 a. A description of the lessor and the property to be served.
26 b. A description of the proposed billing method and billing statements.
27 c. The administrative fee and late payment fee, if any, proposed to be
28 charged by the lessor.
29 d. The name of and contact information for the lessor and the lessor's
30 agents.
31 e. The name of and contact information for the supplier of natural gas
32 service to the lessor's rental property.
33 f. A copy of the lease forms used by the lessor for lessees who are
34 billed for natural gas service pursuant to this subsection.
35 g. Any additional information that the Commission may require.
36 (6) The Commission shall approve or disapprove an application within 60 days
37 of the filing of a completed application with the Commission. If the
38 Commission has not issued an order disapproving a completed application
39 within 60 days, the application shall be deemed approved.
40 (7) A lessor who charges for natural gas service under this subsection shall not
41 be required to file annual reports pursuant to G.S. 62-36.
42 (7a) An applicant may submit for authority to charge for natural gas service for
43 more than one property in a single application. Information relating to all
44 properties covered by the application need only be provided once in the
45 application.
46 (8) The Commission shall adopt rules to implement the provisions of this
47 subsection."

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 799
Apr 11, 2017
HOUSE PRINCIPAL CLERK
D

H

HOUSE BILL DRH10278-MQf-101 (03/22)

Short Title: Utility Billing by Lessors. (Public)

Sponsors: Representative Bradford.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR LANDLORDS TO CHARGE INDIVIDUAL TENANTS FOR
3 SHARED COST OF NATURAL GAS SERVICE PROVIDED TO LEASED PREMISES.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 42-42.1 reads as rewritten:

6 "§ 42-42.1. Water and electricity conservation.

7 (a) For the purpose of encouraging ~~water and electricity~~ water, electricity, and gas
8 conservation, pursuant to a written rental agreement, a landlord may charge for the cost of
9 providing water or sewer service to tenants ~~who occupy the same contiguous premises pursuant~~
10 ~~to G.S. 62-110(g) or G.S. 62-110(g),~~ electric service pursuant to ~~G.S. 62-110(h).~~ G.S. 62-110(h),
11 or natural gas service pursuant to G.S. 62-110(i).

12 (b) The landlord may not disconnect or terminate the tenant's electric service ~~or water~~
13 ~~or sewer services due to the tenant's nonpayment of the amount due for electric service or water~~
14 ~~or sewer services."~~

15 SECTION 2. G.S. 62-110 reads as rewritten:

16 "§ 62-110. Certificate of convenience and necessity.

17 ...
18 (g) In addition to the authority to issue a certificate of public convenience and necessity
19 and establish rates otherwise granted in this Chapter, for the purpose of encouraging water
20 conservation, the Commission may, consistent with the public interest, adopt procedures that
21 allow a lessor to charge for the costs of providing water or sewer service to persons who
22 occupy the ~~same contiguous leased~~ premises. The following provisions shall apply:

23 ...
24 (1a) If the ~~contiguous leased~~ premises ~~were~~ are contiguous dwelling units built
25 prior to ~~1989~~ 1989, and the lessor determines that the measurement of the
26 ~~tenant's lessee's~~ total water usage is impractical or not economical, the lessor
27 may allocate the cost for water and sewer service to the ~~tenant's lessee~~ using
28 equipment that measures the ~~tenant's lessee's~~ hot water usage. In that case,
29 each ~~tenant's lessee~~ shall be billed a percentage of the landlord's water and
30 sewer costs for water usage in the dwelling units based upon the hot water
31 used in the ~~tenant's lessee's~~ dwelling unit. The percentage of total water usage
32 allocated for each dwelling unit shall be equal to that dwelling unit's
33 individually submetered hot water usage divided by all submetered hot water
34 usage in all dwelling units. The following conditions apply to billing for
35 water and sewer service under this subdivision:



- a. A lessor shall not utilize a ratio utility billing system or other allocation billing system that does not rely on individually submetered hot water usage to determine the allocation of water and sewer costs.
 - b. The lessor shall not include in a ~~tenant's~~lessee's bill the cost of water and sewer service used in common areas or water loss due to leaks in the lessor's water mains. A lessor shall not bill or attempt to collect for excess water usage resulting from a plumbing malfunction or other condition that is not known to the ~~tenant~~lessee or that has been reported to the lessor.
 - c. All equipment used to measure water usage shall comply with guidelines promulgated by the American Water Works Association.
 - d. The lessor shall maintain records for a minimum of 12 months that demonstrate how each ~~tenant's~~lessee's allocated costs were calculated for water and sewer service. Upon advanced written notice to the lessor, a ~~tenant~~lessee may inspect the records during reasonable business hours.
 - e. Bills for water and sewer service sent by the lessor to the ~~tenant~~lessee shall contain all the following information:
 1. The amount of water and sewer services allocated to the ~~tenant~~lessee during the billing period.
 2. The method used to determine the amount of water and sewer services allocated to the ~~tenant~~lessee.
 3. Beginning and ending dates for the billing period.
 4. The past-due date, which shall not be less than 25 days after the bill is mailed.
 5. A local or toll-free telephone number and address that the ~~tenant~~lessee can use to obtain more information about the bill.
- (2) The lessor may charge a reasonable administrative fee for providing water or sewer service not to exceed the maximum administrative fee authorized by the Commission.
- (3) The Commission shall ~~issue~~adopt rules to ~~define contiguous premises and to implement this subsection. In issuing the rule to define contiguous premises, the Commission shall consider contiguous premises where manufactured homes, as defined in G.S. 143-145(7), or spaces for manufactured homes are rented.~~
- (4) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service. The form shall include all of the following:
- a. A description of the applicant and the property to be served.
 - b. A description of the proposed billing method and billing statements.
 - c. The schedule of rates charged to the applicant by the supplier.
 - d. The schedule of rates the applicant proposes to charge the applicant's customers.
 - e. The administrative fee proposed to be charged by the applicant.
 - f. The name of and contact information for the applicant and its agents.
 - g. The name of and contact information for the supplying water or sewer system.
 - h. Any additional information that the Commission may require.
- (4a) The Commission shall develop an application that lessors must submit for authority to charge for water or sewer service at single-family dwellings that

- allows the applicant to serve multiple dwellings in the State, subject to an approval by the Commission. The form shall include all of the following:
- a. A description of the applicant and a listing of the addresses of all the properties to be served. An updated listing of addresses served by the applicant shall be provided to the Commission annually.
 - b. A description of the proposed billing method and billing statements.
 - c. The administrative fee proposed to be charged by the applicant.
 - d. The name and contact information for the applicant and its agents.
 - e. Any additional information the Commission may require.
- (5) The Commission shall approve or disapprove an application within 30 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 30 days, the application shall be deemed approved.
- (6) A provider of water or sewer service under this subsection may increase the rate for service so long as the rate does not exceed the unit consumption rate charged by the supplier of the service. A provider of water or sewer service under this subsection may change the administrative fee so long as the administrative fee does not exceed the maximum administrative fee authorized by the Commission. In order to change the rate or administrative fee, the provider shall file a notice of revised schedule of rates and fees with the Commission. The Commission may prescribe the form by which the provider files a notice of a revised schedule of rates and fees under this subsection. The form shall include all of the following:
- a. The current schedule of the unit consumption rates charged by the provider.
 - b. The schedule of rates charged by the supplier to the provider that the provider proposes to pass through to the provider's customers.
 - c. The schedule of the unit consumption rates proposed to be charged by the provider.
 - d. The current administrative fee charged by the provider, if applicable.
 - e. The administrative fee proposed to be charged by the provider.
- (7) A notification of revised schedule of rates and fees shall be presumed valid and shall be allowed to become effective upon 14 days notice to the Commission, unless otherwise suspended or disapproved by order issued within 14 days after filing.
- (8) Notwithstanding any other provision of this Chapter, the Commission shall determine the extent to which the services shall be regulated and, to the extent necessary to protect the public interest, regulate the terms, conditions, and rates that may be charged for the services. Nothing in this subsection shall be construed to alter the rights, obligations, or remedies of persons providing water or sewer services and their customers under any other provision of law.
- (9) A provider of water or sewer service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36 or to furnish a bond pursuant to G.S. 62-110.3.
- (h) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of a single-family dwelling, residential building, or multiunit apartment complex that has individually metered units for electric service in the lessor's name to charge for the actual costs of providing electric service to

each ~~tenant when the lessor has a separate lease for each bedroom in the unit.~~ lessee. The following provisions shall apply to the charges authorized under this subsection:

- (1) The lessor shall equally divide the actual amount of the individual electric service bill for a unit among all the ~~tenants-lessees~~ in the unit and shall send one bill to each ~~tenant-lessee~~. The amount charged shall be prorated when a ~~tenant-lessee~~ has not leased the unit for the same number of days as the other ~~tenants-lessees~~ in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of electricity from any other unit or common area in a ~~tenant's-lessee's~~ bill. The lessor may, at the lessor's option, pay any portion of any bill sent to a ~~tenant-lessee~~.
- (2) A lessor who charges for electric service under this subsection is solely responsible for the prompt payment of all bills rendered by the electric utility providing service to the ~~residential building or complex leased premises~~ and is the customer of the electric utility subject to all rules, regulations, tariffs, riders, and service regulations associated with the provision of electric service to retail customers of the utility.
- (3) The lessor shall maintain records for a minimum of 36 months that demonstrate how each ~~tenant's-lessee's~~ allocated costs were calculated for electric service. A ~~tenant-lessee~~ may inspect these records, including the actual per unit public utility billings, during reasonable business hours and may obtain copies of the records for a reasonable copying fee.
- (4) Bills for electric service sent by the lessor to the ~~tenant-lessee~~ shall contain all of the following information:
 - a. ~~The~~ When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the electric supplier for the unit as a whole and the amount of charges allocated to the ~~tenant-lessee~~ during the billing period.
 - b. The name of the electric power supplier providing electric service to the ~~unit-leased premises~~.
 - c. Beginning and ending dates for the usage period and, if provided by the electric supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the ~~tenant-lessee~~.
 - e. A local or toll-free telephone number and address that the ~~tenant-lessee~~ can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the ~~tenant's-lessee's~~ right to address questions about the bill to the lessor and the ~~tenant's-lessee's~~ right to file a complaint with, or otherwise seek recourse from, the Commission if the ~~tenant-lessee~~ cannot resolve an electric service billing dispute with the lessor.
- (5) The Commission shall develop an application that a ~~lessor-lessors~~ must submit for Commission approval to charge for electric service as provided in this section. The form shall include all of the following:
 - a. A description of the lessor and the property to be served.

- 1 b. A description of the proposed billing method and billing statements.
2 c. The administrative fee and late payment fee, if any, proposed to be
3 charged by the lessor.
4 d. The name of and contact information for the lessor and the lessor's
5 agents.
6 e. The name of and contact information for the supplier of electric
7 service to the lessor's rental property.
8 f. A copy of the lease forms used by the lessor for ~~tenants~~ lessees who
9 are billed for electric service pursuant to this subsection.
10 g. Any additional information that the Commission may require.
- 11 (6) The Commission shall approve or disapprove an application within 60 days
12 of the filing of a completed application with the Commission. If the
13 Commission has not issued an order disapproving a completed application
14 within 60 days, the application shall be deemed approved.
- 15 (7) A lessor who charges for electric service under this subsection shall not be
16 required to file annual reports pursuant to G.S. 62-36.
- 17 (7a) An applicant may submit for authority to charge for electric service for more
18 than one property in a single application. Information relating to all
19 properties covered by the application need only be provided once in the
20 application.
- 21 (8) The Commission shall adopt rules to implement the provisions of this
22 subsection.
- 23 (i) In addition to the authority to issue a certificate of public convenience and necessity
24 and establish rates otherwise granted in this Chapter, the Commission may, consistent with the
25 public interest, adopt procedures that allow a lessor of single-family dwelling, a residential
26 building, or multiunit apartment complex that has individually metered units for natural gas
27 service in the lessor's name to charge for the actual costs of providing natural gas service to
28 each lessee. The following provisions shall apply to the charges authorized under this
29 subsection:
- 30 (1) The lessor shall equally divide the actual amount of the individual natural
31 gas service bill for a unit among all the lessees in the unit and shall send one
32 bill to each lessee. The amount charged shall be prorated when a lessee has
33 not leased the unit for the same number of days as the other lessees in the
34 unit during the billing period. Each bill may include an administrative fee up
35 to the amount of the then-current administrative fee authorized by the
36 Commission in Rule 18-6 for water service and, when applicable, a late fee
37 in an amount determined by the Commission. The lessor shall not charge the
38 cost of natural gas service from any other unit or common area in a lessee's
39 bill. The lessor may, at the lessor's option, pay any portion of any bill sent to
40 a lessee.
- 41 (2) A lessor who charges for natural gas service under this subsection is solely
42 responsible for the prompt payment of all bills rendered by the natural gas
43 utility providing service to the leased premises and is the customer of the
44 natural gas utility subject to all rules, regulations, tariffs, riders, and service
45 regulations associated with the provision of natural gas service to retail
46 customers of the utility.
- 47 (3) The lessor shall maintain records for a minimum of 36 months that
48 demonstrate how each lessee's allocated costs were calculated for natural gas
49 service. A lessee may inspect these records, including the actual per unit
50 public utility billings, during reasonable business hours and may obtain
51 copies of the records for a reasonable copying fee.

- (4) Bills for natural gas service sent by the lessor to the lessee shall contain all of the following information:
- a. When the lessor of a residential building or multiunit apartment complex has a separate lease for each bedroom in the unit, the bill charged by the natural gas supplier for the unit as a whole and the amount of charges allocated to the lessee during the billing period.
 - b. The name of the natural gas supplier providing natural gas service to the leased premises.
 - c. Beginning and ending dates for the usage period and, if provided by the natural gas supplier, the date the meter was read for that usage period.
 - d. The past-due date, which shall not be less than 25 days after the bill is mailed to the lessee.
 - e. A local or toll-free telephone number and address that the lessee can use to obtain more information about the bill.
 - f. The amount of any administrative fee and late fee approved by the Commission and included in the bill.
 - g. A statement of the lessee's right to address questions about the bill to the lessor and the lessee's right to file a complaint with, or otherwise seek recourse from, the Commission if the lessee cannot resolve a natural gas service billing dispute with the lessor.
- (5) The Commission shall develop an application that lessors must submit for Commission approval to charge for natural gas service as provided in this section. The form shall include all of the following:
- a. A description of the lessor and the property to be served.
 - b. A description of the proposed billing method and billing statements.
 - c. The administrative fee and late payment fee, if any, proposed to be charged by the lessor.
 - d. The name of and contact information for the lessor and the lessor's agents.
 - e. The name of and contact information for the supplier of natural gas service to the lessor's rental property.
 - f. A copy of the lease forms used by the lessor for lessees who are billed for natural gas service pursuant to this subsection.
 - g. Any additional information that the Commission may require.
- (6) The Commission shall approve or disapprove an application within 60 days of the filing of a completed application with the Commission. If the Commission has not issued an order disapproving a completed application within 60 days, the application shall be deemed approved.
- (7) A lessor who charges for natural gas service under this subsection shall not be required to file annual reports pursuant to G.S. 62-36.
- (7a) An applicant may submit for authority to charge for natural gas service for more than one property in a single application. Information relating to all properties covered by the application need only be provided once in the application.
- (8) The Commission shall adopt rules to implement the provisions of this subsection."

SECTION 2. This act becomes effective October 1, 2017.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Apr 4, 2017
S.B. 615
PRINCIPAL CLERK

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SENATE BILL DRS35246-TQxf-20 (03/15)

Short Title: North Carolina Farm Act of 2017.

(Public)

Sponsors: Senators B. Jackson, Sanderson, and Brock (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS GOVERNING AGRICULTURAL MATTERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 106-498 reads as rewritten:

"§ 106-498. Bond required.

No permit shall be issued to a handler until such handler has furnished the Commissioner of Agriculture a bond satisfactory to the Commissioner in an amount of not less than ten thousand dollars (\$10,000). The Commissioner may require a new bond or he may require the amount of any bond to be increased if he finds it necessary for the protection of the producer. Such bond shall be payable to the State and shall be conditioned upon the fulfilling of all financial obligations incurred by the handler with all producers with whom the handler ~~contracts-transacts business~~. Any producer alleging any injury by the fraud, deceit, willful injury or failure to comply with the terms of any ~~written contract agreement~~ by a handler may bring suit on the bond against the principal and his surety in any court of competent jurisdiction and may recover the damages found to be caused by such acts complained of."

SECTION 1.(b) This section becomes effective October 1, 2017.

SECTION 2.1. G.S. 153A-340(b) reads as rewritten:

- "(b) (1) These regulations may not affect property used for bona fide farm ~~purposes only as provided in subdivision (3) of this subsection. This purposes; provided, however, that this subsection does not limit regulation under this~~ Part with respect to the use of farm property for nonfarm purposes.
- (2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes,



any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

(3) ~~The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction."~~

SECTION 2.2. G.S. 106-743.4(a) reads as rewritten:

"(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

~~Nothing in this section shall affect the county's authority to zone swine farms pursuant to G.S. 153A-340(b)(3)."~~

SECTION 3.(a) Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to Section 3(c) of this act, the Commission shall implement 15A NCAC 02D .1806 as provided in subsection (b) of this section.

SECTION 3.(b) Implementation. – Notwithstanding subsection (c) of 15A NCAC 02D .1806, the Commission shall classify facilities that store products that are (i) grown, produced, or generated on one or more agricultural operations and (ii) that are "renewable energy resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the requirements of the Rule.

SECTION 3.(c) Additional Rule-Making Authority. – The Commission shall adopt rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

SECTION 3.(d) Effective Date. – Section 3(b) of this act expires on the date that rules adopted pursuant to subsection (c) of this act become effective. The remainder of this act is effective when it becomes law.

SECTION 4.(a) G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

...."

SECTION 4.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

SECTION 5. G.S. 68-17 reads as rewritten:

"§ 68-17. Impounding livestock at large; right to recover costs and ~~damages~~ damages; abandoned livestock.

(a) Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to locate the owner.

(b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake custody of the animal within one month after the last day the owner paid a fee to the custodian for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable attempts to collect any past-due fees during the one-month period. If, after the end of the one-month period, the custodian of the abandoned livestock has been unsuccessful in collecting the past-due fees and the owner of the livestock has not retaken custody of the livestock, the custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or transferee of the livestock and certifies compliance with the criteria and requirements of this subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian shall provide written notice of the provisions of this subsection in conspicuous type to the owner of livestock at the time the livestock is delivered for treatment, boarding, or care, as follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."

1 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes
2 law.

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Tom BERN	EDF
Matthew Storr	Rimsherper
STEVE MURPHY	NC MARINE FISHERIES / DEQ
Nancy D. Sh	NC Marine Fisheries / DEQ
Jonathan Babaker	Babaker & Assoc.
Susan Vick	Duke
David M'Gowan	NCPC
Penny Sniffen	SOG
Karen Plaster	landowner
W	WRC
Brian Mewald	WM



VISITOR REGISTRATION SHEET

Ag
Name of Committee5/24/17
DateVISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Rob Tylor

NC DEQ

Ted Bush

NC DEQ

Andy Miller

DEQ - Speaker

Michael Scott

DEQ Speaker

John Morant

DNR Tree not sent



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, May 25, 2017, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 615	North Carolina Farm Act of 2017.	Senator B. Jackson Senator Sanderson Senator Brock
HB 56	Amend Environmental Laws. For Discussion Only	Representative McElraft Representative Yarborough
HB 576	Allow Aerosolization of Leachate. For Discussion Only	Representative Dixon

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Tuesday, May 30, 2017

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

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

SB 615

North Carolina Farm Act of 2017.

Draft Number:	S615-PCS45435-Rif-20
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Brent Jackson will handle SB 615



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Senate Committee on Agriculture/Environment/Natural Resources
Thursday, May 25, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00AM on May 25, 2017 in Room 544 of the Legislative Office Building. 17 members were present.

Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Terry Barnhardt, Frances Patterson and Archie Smith and Pages Savannah Sasser, Salemburg, sponsored by Senator Rabin; McCall Holland, Ocean Isle Beach, sponsored by Senator Rabon; Jonathan Haycox, Huntersville, sponsored by Senator Tarte; Andrew Faircloth, Huntersville, sponsored by Senator Tarte; Jaden Rudolph, Denver, sponsored by Senator Curtis; Luke Richardson, Charlotte, sponsored by Senator Tarte; Tyler Hicks, Davidson, sponsored by Senator Newton and Callie Mahaley, Kannapolis, sponsored by Senator Newton.

SB 615 NORTH CAROLINA FARM ACT OF 2017
(Senators B. Jackson/Sanderson/Brock)

Senator B. Jackson presented the amendment. Senate Bill 615 is an act to amend certain laws governing agricultural matters. Senator Jackson answered questions from Senator Brock. Senator Woodard moved for a favorable report. Senator Jackson presented the bill and Senator Wade moves for a favorable report – unfavorable to the bill but favorable to the Committee Substitute.

HB 56 AMEND ENVIRONMENTAL LAWS (Reps. McElraft/Yarborough)


Senator Wells presented the PCS. House Bill 56 is an act to amend various environmental laws. Jennifer McGinnis and Jeff Hudson from Legislative Analysis presented sections of the PCS. Rep. Yarborough answered questions from Senators McInnis and Wade. Andy Miller from Department of Environmental Quality answered questions from Senator Bryant. Senator Cook presented Sections 10, 11, 12 of the bill. Brooks Rainey Pearson from Southern Environment Law Center spoke in opposition of the bill. Senator Cook answered questions from Senators Newton and Wade. Tracy Davis from Department of Environmental Quality spoke and would like additional information. Senator Sanderson presided while Senator Wells presented Sections 13, 14, 15, 16, 17, 18 of the bill. Jeff Hudson in Legislative Analysis responded to questions from Senator Waddell on Section 13. Jennifer McGinnis responded to questions from Senators Woodard and Bryant on Section 15. Jennifer McGinnis answered questions from Senator Bryant on Section 18A. Senator Rabin commented on riparian buffers. Jeff Hudson answered Senator Wade's question on Section 7. Jeff Hudson answered questions from Senator Woodard on dam safety. Tom Beane from North Carolina Wildlife Federation commented on the bill. Since the bill is a PCS, it was for discussion only.



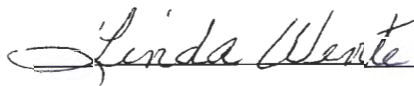
HB 576 ALLOW AEROSOLIZATION OF LEACHATE (Rep. Dixon)

Rep. Dixon presented the bill. House Bill 56 is an act to require the Department of Environmental Quality to approve aerosolization of leachate and wastewater from a lined sanitary landfill for the disposal of municipal solid waste landfill, in certain circumstances and to allow the Department to approve aerosolization of leachate from unlined landfills and to provide that aerosolization of leachate or wastewater that results in a zero-liquid discharge and is not a significant air contamination source and does not constitute a source that requires certain permits. Rep. Dixon and Michael Scott from Department of Environmental Quality answered questions from Senator Chaudhuri. Rep. Dixon and Jennifer McGinnis from Legislative Analysis answered questions from Senator Bryant. Rep. Dixon answered questions from Senators Rabin and Waddell. Jennifer McGinnis answered questions from Senator Waddell. This was a PCS and was for discussion only.

There being no further business, the meeting adjourned at 11:38 AM.



Senator Andy Wells, Chair Presiding



Linda Went, Committee Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 615

Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/30/17

Short Title: North Carolina Farm Act of 2017.

(Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED

AN ACT TO AMEND CERTAIN LAWS GOVERNING AGRICULTURAL MATTERS.

The General Assembly of North Carolina enacts:

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 1.(a) The Agriculture and Forestry Awareness Study Commission shall study both of the following matters:

- (1) Any updates it deems advisable to Article 44 of Chapter 106 of the General Statutes governing unfair practices by handlers of fruits and vegetables, including applicable definitions and requirements under the Article.
- (2) The advisability of providing property tax abatement to aging farm machinery. In conducting this study, the Commission shall consider all of the following: (i) whether farm machinery 10 years or older, or other time period the Commission deems appropriate, should be designated as a special class under Section 2(2) of Article V of the North Carolina Constitution and be excluded from property tax; (ii) if such farm machinery should be excluded from property tax, whether an eighty percent (80%) property tax exclusion is an appropriate exclusion amount, or another amount the Commission deems appropriate; and (iii) the fiscal impact on local governments if such machinery were to be excluded from property tax. The Commission may request any information necessary to complete the study from any county tax office in this State and from the Department of Revenue.

SECTION 1.(b) The Agriculture and Forestry Awareness Study Commission shall complete the studies required by subsection (a) of this section and report its findings and recommendations, including any legislative proposals, to the General Assembly by March 1, 2018.

EXPAND FACILITIES EXEMPT FROM EMC RULE

SECTION 2.(a) Rule. – 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 shall implement 15A NCAC 02D .1806 as provided in subsection (b) of this section.

SECTION 2.(b) Implementation. – Notwithstanding subsection (c) of 15A NCAC 02D .1806, the Commission shall classify facilities that store products that are (i) grown, produced, or generated on one or more agricultural operations and (ii) "renewable energy



resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the requirements of the Rule.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

SECTION 2.(d) Effective Date. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective. The remainder of this section is effective when it becomes law.

PRESENT USE VALUE CHANGE

SECTION 3.(a) G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) **Classes Defined.** – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

- (1) **Agricultural land.** – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

...."

SECTION 3.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

ABANDONED LIVESTOCK AMENDMENTS

SECTION 4. G.S. 68-17 reads as rewritten:

"§ 68-17. Impounding livestock at large; right to recover costs and ~~damages~~damages; abandoned livestock.

(a) Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to locate the owner.

(b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake custody of the animal within two months after the last day the owner paid a fee to the custodian

for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable attempts to collect any past-due fees during the two-month period. If, after the end of the two-month period, the custodian of the abandoned livestock has been unsuccessful in collecting the past-due fees and the owner of the livestock has not retaken custody of the livestock, the custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or transferee of the livestock and certifies compliance with the criteria and requirements of this subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian shall provide written notice of the provisions of this subsection in conspicuous type to the owner of livestock at the time the livestock is delivered for treatment, boarding, or care as follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."

CLARIFY THE AUTHORITY OF THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO ADOPT AND ADMINISTER FOREST PRACTICE GUIDELINES FOR PURPOSES OF THE SEDIMENTATION POLLUTION CONTROL ACT

SECTION 6.(a) G.S. 113A-52.01 reads as rewritten:

"§ 113A-52.01. Applicability of this Article.

This Article shall not apply to the following land-disturbing activities:

...

- (2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with ~~best management practices set out in~~ standards defined by the Forest Practice Guidelines Related to Water Quality, as adopted by the ~~Department~~ Department of Agriculture and Consumer Services.

...."

SECTION 6.(b) G.S. 113A-52.1 reads as rewritten:

"§ 113A-52.1. Forest Practice Guidelines.

(a) The Department of Agriculture and Consumer Services shall adopt Forest Practice Guidelines Related to Water Quality (best management practices). The adoption of Forest Practices Guidelines Related to Water Quality under this section is subject to the provisions of Chapter 150B of the General Statutes.

(b) If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Article shall apply to such activity and any related land-disturbing activity on the tract.

(c) The ~~Secretary-Commissioner~~ shall establish and appoint a Forestry Technical Advisory Committee to assist in the development and periodic review of Forest Practice Guidelines Related to Water Quality. The Forestry Technical Advisory Committee shall consist of one member from the forest products industry, one member who is a consulting forester, one member who is a private landowner knowledgeable in forestry, one member from the United States Forest Service, one member from the academic community who is knowledgeable in forestry, one member employed by the Department of Environmental Quality who is knowledgeable in erosion and sedimentation control, one member who is knowledgeable in wildlife management, one member who is knowledgeable in marine fisheries management, one member who is knowledgeable in water quality, and one member from the conservation community."

SECTION 6.(c) G.S. 113A-61.1 reads as rewritten:

"§ 113A-61.1. Inspection of land-disturbing activity; notice of violation.

(a) The Commission, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority shall provide for inspection of land-disturbing activities to ensure compliance with this Article and to determine whether the measures required in an erosion and sedimentation control plan are effective in controlling erosion and sedimentation resulting from the land-disturbing activity. Notice of this right of inspection shall be included in the certificate of approval of each erosion and sedimentation control plan. The Department of Agriculture and Consumer Services may inspect land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products to determine compliance with the Forest Practice Guidelines Related to Water Quality adopted pursuant to G.S. 113A-52.1.

(b) No person shall willfully resist, delay, or obstruct an authorized representative of the Commission, an authorized representative of a local government, or an employee or an agent of the Department while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity under this section.

(b1) No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Department of Agriculture and Consumer Services while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products under this section.

(c) If the Secretary, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Department, local government, or other approving authority shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the Department, local government, or other approving authority is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures."

SECTION 6.(d) G.S. 106-895 is amended by adding a new subsection to read:
"§ 106-895. Powers of Department of Agriculture and Consumer Services.

(a) The Department of Agriculture and Consumer Services may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(a1) The Department shall adopt Forest Practice Guidelines Related to Water Quality pursuant to G.S. 113A-52.1 of the Sedimentation Pollution Control Act.

(b) In this Article, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Agriculture.

(2) "Department" means the Department of Agriculture and Consumer Services."

ASSENT TO MUTUAL AID PROVISIONS OF THE GREAT PLAINS WILDLAND PROTECTION COMPACT

SECTION 7. G.S. 106-932 reads as rewritten:

"§ 106-932. Assent of legislature to mutual aid provisions of other compacts.

The legislature of this State hereby gives its assent to the mutual aid provisions of Articles IV and V of the South Central Interstate Forest Fire Protection ~~Compact~~ Compact, the Middle Atlantic Interstate Fire Protection Compact, and the Great Plains Wildland Fire Protection Compact, in accordance with Article VIII of that Compact ~~those Compacts~~ relating to interregional mutual aid; ~~and the legislature of this State also hereby gives its assent to the mutual aid provisions of Articles IV and V of the Middle Atlantic Interstate Forest Fire Protection Compact in accordance with Article VIII of that Compact relating to interregional mutual aid.~~"

CLARIFY AGRITOURISM

SECTION 8.(a) G.S. 153A-340(b), as amended by Section 9 of this act, reads as rewritten:

"§ 153A-340. Grant of power.

...

(b) ...

(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. ~~A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.~~

(2a) A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3.

Failure to maintain the requirements of this subsection for a period of three years after the date the building or structure was originally classified as a bona fide purpose pursuant to this subdivision shall subject the building or structure to applicable zoning and development regulation ordinances adopted by a county pursuant to subsection (a) of this section in effect on the date the property no longer meets the requirements of this subsection. For purposes of this section, "agritourism" means any activity carried out on a farm or ranch that allows members of the general public, for recreational, entertainment, or educational purposes, to view or enjoy rural activities, including farming, ranching, historic, cultural, harvest-your-own activities, or natural activities and attractions. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

...."

SECTION 8.(b) G.S. 143-138 reads as rewritten:

"§ 143-138. North Carolina State Building Code.

...

(b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the purposes of this subsection:

(1) For the purposes of this subdivision, a "farm building" means any nonresidential building or structure that is used for a bona fide farm purpose as provided in G.S. 153A-340. A "farm building" shall include:

- a. Any structure used or associated with equine activities, including, but not limited to, the care, management, boarding, or training of horses and the instruction and training of riders. Structures that are associated with equine activities include, but are not limited to, free standing or attached sheds, barns, or other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with equine activities. The specific types of equine activities, structures, and uses set forth in this subdivision are for illustrative purposes, and should not be construed to limit, in any manner, the types of activities, structures, or uses that may be considered under this subsection as exempted from building rules. A farm building that might otherwise qualify for exemption from building rules shall remain subject only to an annual safety inspection by the applicable city or county building inspection department of any grandstand, bleachers, or other spectator-seating structures in the farm building. An annual safety inspection shall include an evaluation of the overall safety of spectator-seating structures as well as ensuring the spectator-seating structure's compliance with any building codes related to the construction of spectator-seating structures in effect at the time of the construction of the spectator-seating.
- b. Any structure used for the display and sale of produce, no more than 1,000 square feet in size, open to the public for no more than 180

- 1 days per year, and certified by the Department of Agriculture and
2 Consumer Services as a Certified Roadside Farm Market.
- 3 c. Any unoccupied structure built upon land owned by the State of
4 North Carolina and administratively allocated to the North Carolina
5 Department of Agriculture and Consumer Services or North Carolina
6 State University which is used primarily for forestry production and
7 research or agriculture production and research. The term
8 "agriculture" has the same meaning as in G.S. 106-581.1. The term
9 "unoccupied" does not exclude the keeping of livestock.
- 10 (1a) A "farm building" shall not lose its status as a farm building because it is
11 used for public or private events, including, but not limited to, weddings,
12 receptions, meetings, demonstrations of farm activities, meals, and other
13 events that are taking place on the farm because of its farm or rural setting.
- 14 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more
15 glass or plastic walls, has an area over ninety-five percent (95%) of which is
16 used to grow or cultivate plants, is built in accordance with the National
17 Greenhouse Manufacturers Association Structural Design manual, and is not
18 used for retail sales. Additional provisions addressing distinct life safety
19 hazards shall be approved by the local building-rules jurisdiction.
- 20 (3) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- 21 (4) A "primitive camp" shall include any structure primarily used or associated
22 with outdoor camping activities, including structures used for educational,
23 instructional, or recreational purposes for campers and for management
24 training, that are (i) not greater than 4,000 square feet in size and (ii) are not
25 intended to be occupied for more than 24 hours consecutively. "Structures
26 primarily used or associated with outdoor camping activities" include, but
27 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,
28 campfire shelters, picnic shelters, tents, tepees or other indigenous huts,
29 support buildings used only for administrative functions and not for
30 activities involving campers or program participants, and any other
31 structures that are utilized to store any equipment, tools, commodities, or
32 other items that are maintained or used in conjunction with outdoor camping
33 activities such as hiking, fishing, hunting, or nature appreciation, regardless
34 of material used for construction. The specific types of primitive camping
35 activities, structures, and uses set forth in this subdivision are for illustrative
36 purposes and should not be construed to limit, in any manner, the types of
37 activities, structures, or uses that are exempted from building rules.
- 38 (5) A "primitive farm building" shall include any structure used for activities,
39 instruction, training, or reenactment of traditional or heritage farming
40 practices. "Primitive farm buildings" include, but are not limited to, sheds,
41 barns, outhouses, doghouses, or other structures that are utilized to store any
42 equipment, tools, commodities, livestock, or other items supporting farm
43 management. These specific types of farming activities, structures, and uses
44 set forth by this subdivision are for illustrative purposes and should not be
45 construed to limit in any manner the types of activities, structures, or uses
46 that are exempted from building rules.
- 47 (6) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- 48"

50 **ELIMINATE COUNTY AUTHORITY TO ADOPT ZONING REGULATIONS**
51 **GOVERNING SWINE FARMS**

SECTION 9.(a) G.S. 153A-340(b) reads as rewritten:

"(b) (1) These regulations may not affect property used for bona fide farm purposes ~~only as provided in subdivision (3) of this subsection. This purposes; provided, however, that this subsection does not limit regulation under this~~ Part with respect to the use of farm property for nonfarm purposes.

(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.

(3) ~~The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction."~~

SECTION 9.(b) G.S. 106-743.4(a) reads as rewritten:

"(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

1 ~~Nothing in this section shall affect the county's authority to zone swine farms pursuant to~~
2 ~~G.S. 153A-340(b)(3)."~~

3
4 **ALLOW FOOD COMPLIANCE INSPECTORS TO DRIVE STATE VEHICLES**
5 **WITHOUT STATE TAGS AND BUMPER STICKERS**

6 **SECTION 10.** G.S. 20-39.1 is amended by adding a new subsection to read:

7 **"§ 20-39.1. Publicly owned vehicles to be marked; private license plates on publicly**
8 **owned vehicles.**

9 (a) Except as otherwise provided in this section, the executive head of every department
10 of State government and every county, institution, or agency of the State shall mark every
11 motor vehicle owned by the State, county, institution, or agency with a statement that the
12 vehicle belongs to the State, county, institution, or agency. The requirements of this subsection
13 are complied with if:

- 14 (1) The vehicle has imprinted on the license plate, above the license number, the
15 words "State Owned" and the vehicle has affixed to the front the words
16 "State Owned";
17 (2) In the case of a county, the vehicle has painted or affixed on its side a circle
18 not less than eight inches in diameter showing a replica of the seal of the
19 county; or
20 (3) In the case of vehicles assigned to members of the Council of State, the
21 vehicle has imprinted on the license plate the license number assigned to the
22 appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a
23 member of the Council of State shall not be assessed any registration fee if
24 the member elects to have a State-owned motor vehicle assigned to the
25 member designated by the official plate number.

26 (b) A motor vehicle used by any State or county officer or official for transporting,
27 apprehending, or arresting persons charged with violations of the laws of the United States or
28 the laws of this State is not required to be marked as provided in subsection (a) of this section.
29 The Commissioner may lawfully provide private license plates to local, State, or federal
30 departments or agencies for use on publicly owned or leased vehicles used for those purposes.
31 Private license plates issued under this subsection shall be issued on an annual basis and the
32 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

33 (c) A motor vehicle used by a county for transporting day or residential facility clients
34 of area mental health, developmental disabilities, and substance abuse authorities established
35 under Article 4 of Chapter 122C of the General Statutes is not required to be marked as
36 provided in subsection (a) of this section. The Commissioner may lawfully provide private
37 license plates to counties for use on publicly owned or leased vehicles used for that purpose.
38 Private license plates issued under this subsection shall be issued on an annual basis and the
39 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

40 (c1) A motor vehicle used by the Department of Agriculture and Consumer Services
41 exclusively for Meat and Poultry compliance officers to conduct inspections is not required to
42 be marked as provided in subsection (a) of this section. The Commissioner may lawfully
43 provide private license plates to the Department of Agriculture and Consumer Services for use
44 on publicly owned or leased vehicles used for this purpose. Private license plates issued under
45 this subsection shall be issued on an annual basis and the records of issuance shall be
46 maintained in accordance with the provisions of G.S. 20-56.

47 "

48
49 **MEAT AND POULTRY TECHNICAL CORRECTIONS**

50 **SECTION 11.(a)** G.S. 106-549.15(1) reads as rewritten:

51 **"§ 106-549.15. Definitions.**

As used in this Article, except as otherwise specified, the following terms shall have the meanings stated below:

- (1) "Adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:
 - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
 - b.
 1. If it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;
 2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;
 3. If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;
 4. If it bears or contains any color additive which is unsafe within the meaning of section ~~706-721~~ of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not adulterated under clause 2, 3, or 4 shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive or color additive in or on such article is prohibited by order of the Commissioner in establishments at which inspection is maintained under this Article;

...."

SECTION 11.(b) G.S. 106-549.51 reads as rewritten:

"§ 106-549.51. Definitions.

For purposes of this Article, the following terms shall have the meanings stated below:

- (1) "Adulterated" shall apply to any poultry product under one or more of the following circumstances:
 - a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;
 - b.
 1. If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;
 2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which

- 1 is unsafe within the meaning of section 408 of the Federal
2 Food, Drug, and Cosmetic Act;
3 3. If it bears or contains any food additive which is unsafe
4 within the meaning of section 409 of the Federal Food, Drug,
5 and Cosmetic Act;
6 4. If it bears or contains any color additive which is unsafe
7 within the meaning of section ~~706~~721 of the Federal Food,
8 Drug, and Cosmetic Act: Provided, that an article which is
9 not otherwise deemed adulterated under paragraphs 2, 3, or 4
10 shall nevertheless be deemed adulterated if use of the
11 pesticide chemical, food additive, or color additive in or on
12 such article is prohibited by regulations of the Board in
13 official establishments;

14"

15 MODERNIZE FOREST RANGER STATUTES

16 SECTION 12.(a) G.S. 106-896 reads as rewritten:

17 "§ 106-896. Forest ~~rangers~~, rangers, deputy rangers, and emergency workers.

18 The Commissioner or the Commissioner's designee may ~~appoint one county forest ranger~~
19 ~~and one or more deputy forest rangers in each county of the State in which, after careful~~
20 ~~investigation, the amount of forestland and the risks from forest fires shall, in his judgment,~~
21 ~~warrant the establishment of a forest fire organization.~~ authorize as many forest rangers, deputy
22 rangers, or emergency workers as the Commissioner deems necessary and available. For
23 purposes of this Article, the following definitions apply:

- 24 (1) "Deputy ranger" means a highly trained emergency worker hired on a
25 temporary basis to respond to a given emergency or condition. A deputy
26 ranger shall be sworn or affirmed to the terms of "General Oath" as provided
27 in G.S. 11-11. A deputy ranger shall have the powers and duties as
28 enumerated in G.S. 106-899.
29 (2) "Emergency worker" means a person who is not an employee of the NC
30 Forest Service but is an individual serving on a temporary basis in case of
31 fire, storm, snow, earthquake, flood, or other similar emergency. Except for
32 a deputy ranger, an emergency worker is not sworn or affirmed to the terms
33 of "General Oath" provided in G.S. 11-11.
34 (3) "Forest ranger" means an employee of the North Carolina Forest Service
35 who has been sworn or affirmed to the terms of "General Oath" provided in
36 G.S. 11-11. A forest ranger shall have the powers and duties as enumerated
37 in G.S. 106-898 and G.S. 106-899."

38 SECTION 12.(b) G.S. 106-899 reads as rewritten:

39 "§ 106-899. Powers of forest rangers ~~and deputy rangers~~ to prevent and extinguish fires; 40 authority to issue citations and warning tickets.

41 (a) Forest rangers or deputy rangers shall prevent and extinguish forest fires and shall
42 have control and direction of all persons and equipment while engaged in the extinguishing of
43 forest fires. During a season of drought, the Commissioner or his designate may establish a fire
44 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest
45 ranger or deputy ranger shall attend forthwith and use all necessary means to confine and
46 extinguish such fire. The forest ranger or ~~deputy forest ranger~~ may summon any resident
47 between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require
48 the use of crawler tractors and other property needed for such purposes; any person so
49 summoned and who is physically able who refuses or neglects to assist or to allow the use of
50 equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon
51

conviction shall only be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy ~~forest~~ ranger, or person summoned by ~~him~~ a forest ranger for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy ~~forest~~ ranger.

(b) Forest rangers are authorized to issue and serve citations under the terms of G.S. 15A-302 and warning tickets under the terms of G.S. 106-901 for offenses under the forest laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2."

SECTION 12.(c) G.S. 106-902 reads as rewritten:

"§ 106-902. Compensation of forest ~~rangers~~ rangers, deputy rangers, and emergency workers.

Forest ~~rangers~~ rangers, deputy rangers, and emergency workers shall receive compensation from the Department at a reasonable rate to be fixed by said Department for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the Commissioner every month, and approved by him. Forest rangers shall render to the Commissioner a statement of the services rendered by the men employed by them or their deputy rangers, as provided in this Article, within one month of the date of service, which bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the Commissioner. If said bill be duly approved by the Commissioner, it shall be paid by direction of the Department out of any funds provided for that purpose."

SECTION 12.(d) G.S. 106-907 reads as rewritten:

"§ 106-907. Instructions on forest preservation and development.

(a) It shall be the duty of all ~~district, county, township rangers, and all deputy forest~~ rangers provided for in this Chapter to distribute in all of the public schools and high schools of the county in which they are serving as such ~~fire~~ forest rangers all such tracts, books, periodicals and other literature that may, from time to time, be sent out to such rangers by the State and federal forestry agencies touching or dealing with forest preservation, development, and forest management.

(b) It shall be the duty of the ~~various~~ forest rangers herein mentioned under the direction of the Commissioner, and the duty of the teachers of the various schools, both public and high schools, to keep posted at some conspicuous place in the various classrooms of the school buildings such appropriate bulletins and posters as may be sent out from the forestry agencies herein named for that purpose and keep the same constantly before their pupils; and said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the State, the development and scientific management of the forests of the State, and shall be prepared to give practical instruction to their pupils from time to time and as often as they shall find it possible so to do."

SECTION 12.(e) G.S. 106-941 reads as rewritten:

"§ 106-941. Definitions.

As used in this Article:

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "Forest ranger" means ~~the county forest ranger or deputy~~ a forest ranger designated under G.S. 106-896. G.S. 106-896(3).
- (3) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.
- (4) "Woodland" means woodland as defined in G.S. 106-904."

SECTION 12.(f) G.S. 106-942 reads as rewritten:

"§ 106-942. High hazard counties; permits required; standards.

(a) The provisions of this section apply only to the counties of Beaufort, Bladen, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones, Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as high hazard counties in accordance with G.S. 106-940.

(b) It is unlawful for any person to willfully start or cause to be started any fire in any woodland under the protection of the Department or within 500 feet of any such woodland without first having obtained a permit from the Department. Permits for starting fires may be obtained from forest rangers or other agents authorized by the ~~county~~-forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the ranger or other agent unless permits for the area in question have been prohibited or cancelled in accordance with G.S. 106-944 or G.S. 106-946.

...."

ALLOW EMERGENCY WORKERS TO RECEIVE WORKERS' COMPENSATION WHEN RESPONDING TO NONFIRE EMERGENCIES

SECTION 13. G.S. 97-2 reads as rewritten:

"§ 97-2. Definitions.

When used in this Article, unless the context otherwise requires:

...

- (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 capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's official duty outside the jurisdictional or territorial limits of the municipality, county,

1 or the State of North Carolina and while acting pursuant to authorization or
2 instruction from any superior officer, shall have the same rights under this
3 Article as if such duty or activity were performed within the territorial
4 boundary limits of their employer.

5 Except as otherwise provided herein, every executive officer elected or
6 appointed and empowered in accordance with the charter and bylaws of a
7 corporation shall be considered as an employee of such corporation under
8 this Article.

9 Any such executive officer of a corporation may, notwithstanding any
10 other provision of this Article, be exempt from the coverage of the
11 corporation's insurance contract by such corporation's specifically excluding
12 such executive officer in such contract of insurance, and the exclusion to
13 remove such executive officer from the coverage shall continue for the
14 period such contract of insurance is in effect, and during such period such
15 executive officers thus exempted from the coverage of the insurance contract
16 shall not be employees of such corporation under this Article.

17 All county agricultural extension service employees who do not receive
18 official federal appointments as employees of the United States Department
19 of Agriculture and who are field faculty members with professional rank as
20 designated in the memorandum of understanding between the North
21 Carolina Agricultural Extension Service, North Carolina State University, A
22 & T State University, and the boards of county commissioners shall be
23 deemed to be employees of the State of North Carolina. All other county
24 agricultural extension service employees paid from State or county funds
25 shall be deemed to be employees of the county board of commissioners in
26 the county in which the employee is employed for purposes of workers'
27 compensation.

28 The term "employee" shall also include members of the Civil Air Patrol
29 currently certified pursuant to G.S. 143B-1031(a) when performing duties in
30 the course and scope of a State-approved mission pursuant to Subpart C of
31 Part 5 of Article 13 of Chapter 143B of the General Statutes.

32 "Employee" shall not include any person performing voluntary service as
33 a ski patrolman who receives no compensation for such services other than
34 meals or lodging or the use of ski tow or ski lift facilities or any combination
35 thereof.

36 "Employee" shall not include any person elected or appointed and
37 empowered as an executive officer, director, or committee member under the
38 charter, articles, or bylaws of a nonprofit corporation subject to Chapter
39 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization
40 exempt from federal income tax under section 501(c)(3) of the Internal
41 Revenue Code, who performs only voluntary service for the nonprofit
42 corporation, provided that the person receives no remuneration for the
43 voluntary service other than reasonable reimbursement for expenses incurred
44 in connection with the voluntary service. When a nonprofit corporation as
45 described herein employs one or more persons who do receive remuneration
46 other than reasonable reimbursement for expenses, then any volunteer
47 officers, directors, or committee members excluded from the definition of
48 "employee" by operation of this paragraph shall be counted as employees for
49 the sole purpose of determining the number of persons regularly employed
50 in the same business or establishment pursuant to G.S. 97-2(1). Other than
51 for the limited purpose of determining the number of persons regularly

employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized ~~pickup firefighter emergency worker~~ when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he or she 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 emergency worker~~ 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~~ emergency worker" means an individual who has completed required ~~fire suppression emergency response~~ training as ~~a wildland firefighter required by the North Carolina Forest Service~~ and who is available as needed by the North Carolina Forest Service for emergency ~~fire suppression~~ activities, including immediate dispatch to ~~wildfires~~ wildfires, snow events, hurricanes, earthquakes, floods, or other emergencies, 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.

...."

CREATE EXCEPTION FROM CONSERVATION BENEFIT ANALYSIS FOR CERTAIN EASEMENTS

SECTION 14. G.S. 121-39.1 reads as rewritten:

"§ 121-39.1. Termination or modification of agreements.

...

(g) This section shall not apply to a condemnation action initiated by a condemnor governed by Article 6 of Chapter 40A of the General ~~Statutes~~ Statutes or to a voluntary termination or modification affecting no more than the lesser of two percent (2%) or one acre of the total easement area of the conservation agreement when requested by a public utility, the Department of Transportation, or a government entity having eminent domain authority under Article 3 of Chapter 40A of the General Statutes."

EXEMPT FARM TRUCKS THAT STAY IN STATE FROM HAVING A USDOT IDENTIFICATION NUMBER

SECTION 15. G.S. 20-101 reads as rewritten:

"§ 20-101. Certain business vehicles to be marked.

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle with a gross vehicle weight rating of more than 26,000 pounds that is used in intrastate commerce shall have (i) the name of the owner and (ii) the motor carrier's identification number preceded by the letters "USDOT" and followed by the letters "NC" printed on each side of the vehicle in letters not less than three inches in height. The provisions of this subsection shall not apply if any of the following are true:

(1) The motor vehicle is subject to 49 C.F.R. Part 390.

(2) The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).

(3) The motor vehicle is licensed at the farmer rate under G.S. 20-88.

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on each side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

EXEMPT CLOSURE OF HOG LAGOONS FROM REQUIRING THE USE OF A PROFESSIONAL ENGINEER

SECTION 16. G.S. 89C-25 reads as rewritten:

"§ 89C-25. Limitations on application of Chapter.

This Chapter shall not prevent the following activities:

(1) The practice of architecture as defined in Chapter 83A of the General Statutes, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of the General Statutes.

(2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

(3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

(4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor.

(5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.

(6) Practice by members of the Armed Forces of the United States; employees of the government of the United States while engaged in the practice of engineering or land surveying solely for the government on government-owned works and projects; or practice by those employees of the Natural Resources Conservation Service, county employees, or employees of the Soil and Water Conservation Districts who have federal engineering job approval authority that involves the planning, designing, or implementation of best management practices on agricultural lands.

(7) Repealed by Session Laws 2014-120, s. 11(a), effective September 18, 2014.

(7a) The engineering or surveying activities of a person as defined by G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or transmitting and delivering a product or public utility service, and which activities are reasonably necessary and connected with the primary services performed by individuals regularly employed in the ordinary course of business by the person, provided that the engineering or surveying activity is not a holding out or an offer to the public of engineering or surveying services, as prohibited by this Chapter. The engineering and surveying services may not be offered, performed, or rendered independently from the primary services rendered by the person. For purposes of this subdivision, "activities reasonably necessary and connected with the primary service" include the following:

- a. Installation or servicing of the person's product or public utility service by employees of the person conducted outside the premises of the person's business.
- b. Design, acquisition, installation, or maintenance of machinery, equipment, or apparatus incidental to the manufacture or installation of the product or public utility service performed by employees of the person upon property owned, leased, or used by the person.
- c. Research and development performed in connection with the manufacturing, processing, or production of the person's product or public utility service by employees of the person.

Engineering or surveying activities performed pursuant to this subdivision, where the safety of the public is directly involved, shall be under the responsible charge of a licensed professional engineer or licensed professional surveyor.

(8) The (i) preparation of fire sprinkler planning and design drawings by a fire sprinkler contractor licensed under Article 2 of Chapter 87 of the General Statutes, or (ii) the performance of internal engineering or survey work by a manufacturing or communications common carrier company, or by a research and development company, or by employees of those corporations provided that the work is in connection with, or incidental to products of, or nonengineering services rendered by those corporations or their affiliates.

(9) The routine maintenance or servicing of machinery, equipment, facilities or structures, the work of mechanics in the performance of their established functions, or the inspection or supervision of construction by a foreman, superintendent, or agent of the architect or professional engineer, or services of an operational nature performed by an employee of a laboratory, a manufacturing plant, a public service corporation, or governmental operation.

(10) The design of land application irrigation systems for an animal waste management plan, required by G.S. 143-215.10C, by a designer who

exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission.

- (11) The closure of waste impoundments for animal waste management systems, as defined by G.S. 143-215.10B(3), by a person who is designated as a Technical Specialist in the Waste Utilization Plan/Nutrient Management Category by the North Carolina Soil and Water Conservation Commission. This subsection shall not apply to the design or installation of a spillway."

EXEMPT FARM VEHICLES ENGAGED IN INTRASTATE COMMERCE FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS

SECTION 17.(a) G.S. 20-381 is amended by adding a new subsection to read:

"§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor carriers; agricultural exemption.

(a) The Department of Public Safety has the following powers and duties concerning motor carriers:

- (1) To prescribe qualifications and maximum hours of service of drivers and their helpers.
- (1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Department of Public Safety may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.
- (1b) To enforce this Article, rules adopted under this Article, and the federal safety and hazardous materials regulations.
- (2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers or property.
- (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the Department of Public Safety finds, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown in the transportation of passengers or property on a highway. If an agent of the Department of Public Safety finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge

of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the Department of Public Safety to make a written report, upon a form prescribed by the Department of Public Safety, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

(3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.

(4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

(5) To prohibit the intrastate operation of a motor carrier subject to an order issued by the Federal Motor Carrier Safety Administration to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b).

(c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation relating to hours-of-service rules for drivers engaged in the transportation of agricultural commodities and farm supplies for agricultural purposes, the terms "planting and harvesting season" and "planting and harvesting period" refer to the period from January 1 through December 31 of each year.

(d) The definitions set out in 49 C.F.R. § 390.5 apply to this subsection. A covered farm vehicle engaged in intrastate commerce is exempt from the requirements of 49 C.F.R. § 390.21."

SECTION 17.1.(a) Rule. – Until the effective date of the revised permanent rule that the Division of Motor Vehicles is required to adopt pursuant to subsection (c) of this section, the Division shall implement 14B NCAC 07C .0101 (Safety of Operation and Equipment) as provided in subsection (b) of this section.

SECTION 17.1.(b) Implementation. – Notwithstanding 14B NCAC 07C .0101, the Division shall exempt covered farm vehicles engaged in intrastate commerce from the requirements of 49 C.F.R. § 390.21.

SECTION 17.1.(c) Additional Rule-Making Authority. – The Division shall adopt rules to amend 14B NCAC 07C .0101, consistent with subsection (b) of this section.

1 **SECTION 17.1.(d)** Effective Date. – Subsection (b) of this section expires on the
2 date that rules adopted pursuant to subsection (c) of this section become effective. The
3 remainder of this section is effective when it becomes law.
4

5 **SEVERABILITY/EFFECTIVE DATE**

6 **SECTION 18.** If any provision of this Act or the application thereof to any person
7 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
8 of the act which can be given effect without the invalid provision or application, and, to this
9 end, the provisions of this act are declared to be severable.

10 **SECTION 19.** Except as otherwise provided, this act is effective when it becomes
11 law.



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 615**

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

S615-ARI-37 [v.3]

Page 1 of 4

Amends Title [NO]
S615-CSRI-20

Date _____, 2017

Senator B. Jackson

1 moves to amend the bill on page 3, line 12, through page 4, line 6, by deleting those lines;
2
3 and on page 18, line 25,
4 by rewriting that line to read:
5

6 **"EXEMPT FARM VEHICLES ENGAGED IN INTRASTATE COMMERCE FROM**
7 **CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS**
8

9 **SECTION 17.(a) G.S. 20-381 is amended by adding a new subsection to read:**
10 **"§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor**
11 **carriers; agricultural exemption.**

12 (a) The Department of Public Safety has the following powers and duties concerning
13 motor carriers:

- 14 (1) To prescribe qualifications and maximum hours of service of drivers and
15 their helpers.
16 (1a) To set safety standards for vehicles of motor carriers engaged in foreign,
17 interstate, or intrastate commerce over the highways of this State and for the
18 safe operation of these vehicles. The Department of Public Safety may stop,
19 enter upon, and perform inspections of motor carriers' vehicles in operation
20 to determine compliance with these standards and may conduct any
21 investigations and tests it finds necessary to promote the safety of equipment
22 and the safe operation on the highway of these vehicles.
23 (1b) To enforce this Article, rules adopted under this Article, and the federal
24 safety and hazardous materials regulations.
25 (2) To enter the premises of a motor carrier to inspect a motor vehicle or any
26 equipment used by the motor carrier in transporting passengers or property.
27 (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle
28 equipment the Department of Public Safety finds, by reason of its
29 mechanical condition or loading, would be likely to cause a crash or
30 breakdown in the transportation of passengers or property on a highway. If
31 an agent of the Department of Public Safety finds a motor vehicle of a motor
32 carrier in actual use upon the highways in the transportation of passengers or



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**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
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S615-ARI-37 [v.3]

AMENDMENT NO. _____
(to be filled in by
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Page 2 of 4

property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the Department of Public Safety to make a written report, upon a form prescribed by the Department of Public Safety, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.
- (4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).
- (5) To prohibit the intrastate operation of a motor carrier subject to an order issued by the Federal Motor Carrier Safety Administration to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

**NORTH CAROLINA GENERAL ASSEMBLY
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S615-ARI-37 [v.3]

Page 3 of 4

1 (b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this
2 subsection. The transportation of an agricultural product, other than a Class 2 material, over
3 local roads between fields of the same farm by a farmer operating as an intrastate private motor
4 carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49
5 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150
6 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the
7 requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b).

8 (c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation
9 relating to hours-of-service rules for drivers engaged in the transportation of agricultural
10 commodities and farm supplies for agricultural purposes, the terms "planting and harvesting
11 season" and "planting and harvesting period" refer to the period from January 1 through
12 December 31 of each year.

13 (d) The definitions set out in 49 Code of Federal Regulations § 390.5 apply to this
14 subsection. A covered farm vehicle engaged in intrastate commerce is exempt from the
15 requirements of 49 C.F.R. 390.21."

16 **SECTION 17.1(a) Rule.** – Until the effective date of the revised permanent rule
17 that the Division of Motor Vehicles is required to adopt pursuant to subsection (c) of this
18 section, the Division shall implement 14B NCAC 07C .0101 (Safety of Operation and
19 Equipment) as provided in subsection (b) of this section.

20 **SECTION 17.1(b) Implementation.** – Notwithstanding 14B NCAC 07C .0101, the
21 Division shall exempt covered farm vehicles engaged in intrastate commerce from the
22 requirements of 49 C.F.R. 390.21.

23 **SECTION 17.1(c) Additional Rule-Making Authority.** – The Division shall adopt
24 rules to amend 14B NCAC 07C .0101 consistent with subsection (b) of this section.

25 **SECTION 17.1(d) Effective Date.** – Subsection (b) of this section expires on the
26 date that rules adopted pursuant to subsection (c) of this section become effective. The
27 remainder of this section is effective when it becomes law.

28
29 **SEVERABILITY/EFFECTIVE DATE**

30 **SECTION 18.** If any provision of this Act or the application thereof to any person
31 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
32 of the Act which can be given effect without the invalid provision or application, and to this
33 end the provisions of this Act are declared to be severable

34 **SECTION 19.** Except as otherwise provided, this act is effective when it
35 becomes".
36

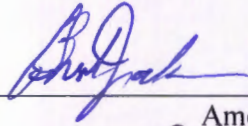
NORTH CAROLINA GENERAL ASSEMBLY
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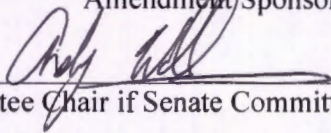
Page 4 of 4

SIGNED



Amendment Sponsor

SIGNED



Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

D

SENATE BILL 615
PROPOSED COMMITTEE SUBSTITUTE S615-PCS45435-RIF-20

Short Title: North Carolina Farm Act of 2017. (Public)

Sponsors:

Referred to:

April 5, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND CERTAIN LAWS GOVERNING AGRICULTURAL MATTERS.
The General Assembly of North Carolina enacts:

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 1.(a) The Agriculture and Forestry Awareness Study Commission shall study both of the following matters:

- (1) Any updates it deems advisable to Article 44 of Chapter 106 of the General Statutes governing unfair practices by handlers of fruits and vegetables, including applicable definitions and requirements under the Article.
- (2) The advisability of providing property tax abatement to aging farm machinery. In conducting this study, the Commission shall consider all of the following: (i) whether farm machinery 10 years or older, or other time period the Commission deems appropriate, should be designated as a special class under Section 2(2) of Article V of the North Carolina Constitution and be excluded from property tax; (ii) if such farm machinery should be excluded from property tax, whether an eighty percent (80%) property tax exclusion is an appropriate exclusion amount, or another amount the Commission deems appropriate; and (iii) the fiscal impact on local governments if such machinery were to be excluded from property tax. The Commission may request any information necessary to complete the study from any county tax office in this State and from the Department of Revenue.

SECTION 1.(b) The Agriculture and Forestry Awareness Study Commission shall complete the studies required by subsection (a) of this section and report its findings and recommendations, including any legislative proposals, to the General Assembly by March 1, 2018.

EXPAND FACILITIES EXEMPT FROM EMC RULE

SECTION 2.(a) Rule. – 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 shall implement 15A NCAC 02D .1806 as provided in subsection (b) of this section.

SECTION 2.(b) Implementation. – Notwithstanding subsection (c) of 15A NCAC 02D .1806, the Commission shall classify facilities that store products that are (i) grown, produced, or generated on one or more agricultural operations and (ii) "renewable energy



resources" as defined in G.S. 62-133.8(a)(8), as agricultural operations that are exempt from the requirements of the Rule.

SECTION 2.(c) Additional Rule-Making Authority. – The Commission shall adopt rules to amend 15A NCAC 02D .1806 consistent with subsection (b) of this section.

SECTION 2.(d) Effective Date. – Subsection (b) of this section expires on the date that rules adopted pursuant to subsection (c) of this section become effective. The remainder of this section is effective when it becomes law.

PRESENT USE VALUE CHANGE

SECTION 3.(a) G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. Agricultural, horticultural, and forestland – Classifications.

(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which satisfies the requirements of this subdivision. For agricultural land used as a farm for aquatic species, as defined in G.S. 106-758, the tract must meet the income requirement for agricultural land and must consist of at least five acres in actual production or produce at least 20,000 pounds of aquatic species for commercial sale annually, regardless of acreage. For all other agricultural land, the tract must meet the income requirement for agricultural land and must consist of at least 10 acres that are in actual production. Land in actual production includes land under improvements used in the commercial production or growing of crops, plants, or animals.

To meet the income requirement, agricultural land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). Gross income includes income from the sale of the agricultural products produced from the land, grazing fees for livestock, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to P.L. 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.

...."

SECTION 3.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2017.

ABANDONED LIVESTOCK AMENDMENTS

SECTION 4. G.S. 68-17 reads as rewritten:

"§ 68-17. Impounding livestock at large; right to recover costs and ~~damages~~damages; abandoned livestock.

(a) Any person may take up any livestock running at large or straying and impound the same; and such impounder may recover from the owner the reasonable costs of impounding and maintaining the livestock as well as damages to the impounder caused by such livestock, and may retain the livestock, with the right to use with proper care until such recovery is had. Reasonable costs of impounding shall include any fees paid pursuant to G.S. 68-18.1 in order to locate the owner.

(b) Livestock is deemed to be abandoned when (i) it is placed in the custody of any other person for treatment, boarding, or care; (ii) the owner of the livestock does not retake custody of the animal within two months after the last day the owner paid a fee to the custodian

1 for the treatment, boarding, or care of the livestock; and (iii) the custodian has made reasonable
2 attempts to collect any past-due fees during the two-month period. If, after the end of the
3 two-month period, the custodian of the abandoned livestock has been unsuccessful in collecting
4 the past-due fees and the owner of the livestock has not retaken custody of the livestock, the
5 custodian may sell or transfer the livestock by executing an affidavit that identifies the buyer or
6 transferee of the livestock and certifies compliance with the criteria and requirements of this
7 subsection. If the custodian is unable to sell or transfer the livestock, the custodian may, but
8 shall not be required to, otherwise humanely dispose of the abandoned livestock. A custodian
9 shall provide written notice of the provisions of this subsection in conspicuous type to the
10 owner of livestock at the time the livestock is delivered for treatment, boarding, or care as
11 follows: "Pursuant to N.C. General Statutes § 68-17(b), the owner of this facility is entitled to
12 sell, transfer, or otherwise humanely dispose of any livestock abandoned at this facility."

13
14 **CLARIFY THE AUTHORITY OF THE DEPARTMENT OF AGRICULTURE AND**
15 **CONSUMER SERVICES TO ADOPT AND ADMINISTER FOREST PRACTICE**
16 **GUIDELINES FOR PURPOSES OF THE SEDIMENTATION POLLUTION**
17 **CONTROL ACT**

18 **SECTION 6.(a)** G.S. 113A-52.01 reads as rewritten:

19 **"§ 113A-52.01. Applicability of this Article.**

20 This Article shall not apply to the following land-disturbing activities:

21 ...

- 22 (2) Activities undertaken on forestland for the production and harvesting of
23 timber and timber products and conducted in accordance with ~~best~~
24 ~~management practices set out in standards defined by the~~ Forest Practice
25 Guidelines Related to Water Quality, as adopted by the ~~Department.~~
26 Department of Agriculture and Consumer Services.

27"

28 **SECTION 6.(b)** G.S. 113A-52.1 reads as rewritten:

29 **"§ 113A-52.1. Forest Practice Guidelines.**

30 (a) The Department of Agriculture and Consumer Services shall adopt Forest Practice
31 Guidelines Related to Water Quality (best management practices). The adoption of Forest
32 Practices Guidelines Related to Water Quality under this section is subject to the provisions of
33 Chapter 150B of the General Statutes.

34 (b) If land-disturbing activity undertaken on forestland for the production and
35 harvesting of timber and timber products is not conducted in accordance with Forest Practice
36 Guidelines Related to Water Quality, the provisions of this Article shall apply to such activity
37 and any related land-disturbing activity on the tract.

38 (c) The ~~Secretary-Commissioner~~ shall establish and appoint a Forestry Technical
39 Advisory Committee to assist in the development and periodic review of Forest Practice
40 Guidelines Related to Water Quality. The Forestry Technical Advisory Committee shall consist
41 of one member from the forest products industry, one member who is a consulting forester, one
42 member who is a private landowner knowledgeable in forestry, one member from the United
43 States Forest Service, one member from the academic community who is knowledgeable in
44 forestry, one member employed by the Department of Environmental Quality who is
45 knowledgeable in erosion and sedimentation control, one member who is knowledgeable in
46 wildlife management, one member who is knowledgeable in marine fisheries management, one
47 member who is knowledgeable in water quality, and one member from the conservation
48 community."

49 **SECTION 6.(c)** G.S. 113A-61.1 reads as rewritten:

50 **"§ 113A-61.1. Inspection of land-disturbing activity; notice of violation.**

(a) The Commission, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority shall provide for inspection of land-disturbing activities to ensure compliance with this Article and to determine whether the measures required in an erosion and sedimentation control plan are effective in controlling erosion and sedimentation resulting from the land-disturbing activity. Notice of this right of inspection shall be included in the certificate of approval of each erosion and sedimentation control plan. The Department of Agriculture and Consumer Services may inspect land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products to determine compliance with the Forest Practice Guidelines Related to Water Quality adopted pursuant to G.S. 113A-52.1.

(b) No person shall willfully resist, delay, or obstruct an authorized representative of the Commission, an authorized representative of a local government, or an employee or an agent of the Department while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity under this section.

(b1) No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Department of Agriculture and Consumer Services while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products under this section.

(c) If the Secretary, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A-1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64. If the person engaged in the land-disturbing activity has not received a previous notice of violation under this section, the Department, local government, or other approving authority shall deliver the notice of violation in person and shall offer assistance in developing corrective measures. Assistance may be provided by referral to a technical assistance program in the Department, referral to a cooperative extension program, or by the provision of written materials such as Department guidance documents. If the Department, local government, or other approving authority is unable to deliver the notice of violation in person within 15 days following discovery of the violation, the notice of violation may be served in the manner prescribed for service of process by G.S. 1A-1, Rule 4, and shall include information on how to obtain assistance in developing corrective measures."

SECTION 6.(d) G.S. 106-895 is amended by adding a new subsection to read:
"§ 106-895. Powers of Department of Agriculture and Consumer Services.

(a) The Department of Agriculture and Consumer Services may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(a1) The Department shall adopt Forest Practice Guidelines Related to Water Quality pursuant to G.S. 113A-52.1 of the Sedimentation Pollution Control Act.

(b) In this Article, unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Agriculture.

(2) "Department" means the Department of Agriculture and Consumer Services."

ASSENT TO MUTUAL AID PROVISIONS OF THE GREAT PLAINS WILDLAND PROTECTION COMPACT

SECTION 7. G.S. 106-932 reads as rewritten:

"§ 106-932. Assent of legislature to mutual aid provisions of other compacts.

The legislature of this State hereby gives its assent to the mutual aid provisions of Articles IV and V of the South Central Interstate Forest Fire Protection ~~Compact~~ Compact, the Middle Atlantic Interstate Fire Protection Compact, and the Great Plains Wildland Fire Protection Compact, in accordance with Article VIII of ~~that Compact~~ those Compacts relating to interregional mutual aid; ~~and the legislature of this State also hereby gives its assent to the mutual aid provisions of Articles IV and V of the Middle Atlantic Interstate Forest Fire Protection Compact in accordance with Article VIII of that Compact relating to interregional mutual aid.~~"

CLARIFY AGRITOURISM

SECTION 8.(a) G.S. 153A-340(b), as amended by Section 9 of this act, reads as rewritten:

"§ 153A-340. Grant of power.

...

(b) ...

(2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
- c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
- d. A forest management plan.
- e. ~~A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.~~

(2a) A building or structure that is used for agritourism is a bona fide farm purpose if the building or structure is located on a property that (i) is owned by a person who holds a qualifying farmer sales tax exemption certificate from the Department of Revenue pursuant to G.S. 105-164.13E(a) or (ii) is enrolled in the present-use value program pursuant to G.S. 105-277.3.

1 Failure to maintain the requirements of this subsection for a period of three
2 years after the date the building or structure was originally classified as a
3 bona fide purpose pursuant to this subdivision shall subject the building or
4 structure to applicable zoning and development regulation ordinances
5 adopted by a county pursuant to subsection (a) of this section in effect on the
6 date the property no longer meets the requirements of this subsection. For
7 purposes of this section, "agritourism" means any activity carried out on a
8 farm or ranch that allows members of the general public, for recreational,
9 entertainment, or educational purposes, to view or enjoy rural activities,
10 including farming, ranching, historic, cultural, harvest-your-own activities,
11 or natural activities and attractions. A building or structure used for
12 agritourism includes any building or structure used for public or private
13 events, including, but not limited to, weddings, receptions, meetings,
14 demonstrations of farm activities, meals, and other events that are taking
15 place on the farm because of its farm or rural setting.

16"

17 **SECTION 8.(b)** G.S. 143-138 reads as rewritten:

18 **"§ 143-138. North Carolina State Building Code.**

19 ...

20 (b4) Exclusion for Certain Farm Buildings. – Building rules do not apply to (i) farm
21 buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm
22 buildings that are located inside the building-rules jurisdiction of any municipality if the farm
23 buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building. For the
24 purposes of this subsection:

25 (1) For the purposes of this subdivision, a "farm building" means any
26 nonresidential building or structure that is used for a bona fide farm purpose
27 as provided in G.S. 153A-340. A "farm building" shall include:

28 a. Any structure used or associated with equine activities, including, but
29 not limited to, the care, management, boarding, or training of horses
30 and the instruction and training of riders. Structures that are
31 associated with equine activities include, but are not limited to, free
32 standing or attached sheds, barns, or other structures that are utilized
33 to store any equipment, tools, commodities, or other items that are
34 maintained or used in conjunction with equine activities. The specific
35 types of equine activities, structures, and uses set forth in this
36 subdivision are for illustrative purposes, and should not be construed
37 to limit, in any manner, the types of activities, structures, or uses that
38 may be considered under this subsection as exempted from building
39 rules. A farm building that might otherwise qualify for exemption
40 from building rules shall remain subject only to an annual safety
41 inspection by the applicable city or county building inspection
42 department of any grandstand, bleachers, or other spectator-seating
43 structures in the farm building. An annual safety inspection shall
44 include an evaluation of the overall safety of spectator-seating
45 structures as well as ensuring the spectator-seating structure's
46 compliance with any building codes related to the construction of
47 spectator-seating structures in effect at the time of the construction of
48 the spectator-seating.

49 b. Any structure used for the display and sale of produce, no more than
50 1,000 square feet in size, open to the public for no more than 180

- 1 days per year, and certified by the Department of Agriculture and
2 Consumer Services as a Certified Roadside Farm Market.
- 3 c. Any unoccupied structure built upon land owned by the State of
4 North Carolina and administratively allocated to the North Carolina
5 Department of Agriculture and Consumer Services or North Carolina
6 State University which is used primarily for forestry production and
7 research or agriculture production and research. The term
8 "agriculture" has the same meaning as in G.S. 106-581.1. The term
9 "unoccupied" does not exclude the keeping of livestock.
- 10 (1a) A "farm building" shall not lose its status as a farm building because it is
11 used for public or private events, including, but not limited to, weddings,
12 receptions, meetings, demonstrations of farm activities, meals, and other
13 events that are taking place on the farm because of its farm or rural setting.
- 14 (2) A "greenhouse" is a structure that has a glass or plastic roof, has one or more
15 glass or plastic walls, has an area over ninety-five percent (95%) of which is
16 used to grow or cultivate plants, is built in accordance with the National
17 Greenhouse Manufacturers Association Structural Design manual, and is not
18 used for retail sales. Additional provisions addressing distinct life safety
19 hazards shall be approved by the local building-rules jurisdiction.
- 20 (3) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- 21 (4) A "primitive camp" shall include any structure primarily used or associated
22 with outdoor camping activities, including structures used for educational,
23 instructional, or recreational purposes for campers and for management
24 training, that are (i) not greater than 4,000 square feet in size and (ii) are not
25 intended to be occupied for more than 24 hours consecutively. "Structures
26 primarily used or associated with outdoor camping activities" include, but
27 are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins,
28 campfire shelters, picnic shelters, tents, tepees or other indigenous huts,
29 support buildings used only for administrative functions and not for
30 activities involving campers or program participants, and any other
31 structures that are utilized to store any equipment, tools, commodities, or
32 other items that are maintained or used in conjunction with outdoor camping
33 activities such as hiking, fishing, hunting, or nature appreciation, regardless
34 of material used for construction. The specific types of primitive camping
35 activities, structures, and uses set forth in this subdivision are for illustrative
36 purposes and should not be construed to limit, in any manner, the types of
37 activities, structures, or uses that are exempted from building rules.
- 38 (5) A "primitive farm building" shall include any structure used for activities,
39 instruction, training, or reenactment of traditional or heritage farming
40 practices. "Primitive farm buildings" include, but are not limited to, sheds,
41 barns, outhouses, doghouses, or other structures that are utilized to store any
42 equipment, tools, commodities, livestock, or other items supporting farm
43 management. These specific types of farming activities, structures, and uses
44 set forth by this subdivision are for illustrative purposes and should not be
45 construed to limit in any manner the types of activities, structures, or uses
46 that are exempted from building rules.
- 47 (6) Repealed by Session Laws 2015-263, s. 34, effective September 30, 2015.
- 48

49
50 **ELIMINATE COUNTY AUTHORITY TO ADOPT ZONING REGULATIONS**
51 **GOVERNING SWINE FARMS**

SECTION 9.(a) G.S. 153A-340(b) reads as rewritten:

- "(b) (1) These regulations may not affect property used for bona fide farm purposes ~~only as provided in subdivision (3) of this subsection. This purposes; provided, however, that this subsection does not limit regulation under this~~ Part with respect to the use of farm property for nonfarm purposes.
- (2) Except as provided in G.S. 106-743.4 for farms that are subject to a conservation agreement under G.S. 106-743.2, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. For purposes of this subdivision, "when performed on the farm" in G.S. 106-581.1(6) shall include the farm within the jurisdiction of the county and any other farm owned or leased to or from others by the bona fide farm operator, no matter where located. For purposes of this subdivision, the production of a nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:
- a. A farm sales tax exemption certificate issued by the Department of Revenue.
 - b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to G.S. 105-277.3.
 - c. A copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
 - d. A forest management plan.
 - e. A Farm Identification Number issued by the United States Department of Agriculture Farm Service Agency.
- (3) ~~The definitions set out in G.S. 106-802 apply to this subdivision. A county may adopt zoning regulations governing swine farms served by animal waste management systems having a design capacity of 600,000 pounds steady state live weight (SSLW) or greater provided that the zoning regulations may not have the effect of excluding swine farms served by an animal waste management system having a design capacity of 600,000 pounds SSLW or greater from the entire zoning jurisdiction."~~

SECTION 9.(b) G.S. 106-743.4(a) reads as rewritten:

"(a) Property that is subject to a conservation agreement under G.S. 106-743.2 that remains in effect may receive up to twenty-five percent (25%) of its gross sales from the sale of nonfarm products and still qualify as a bona fide farm that is exempt from zoning regulations under G.S. 153A-340(b). For purposes of G.S. 153A-340(b), the production of any nonfarm product that the Department of Agriculture and Consumer Services recognizes as a "Goodness Grows in North Carolina" product that is produced on a farm that is subject to a conservation agreement under G.S. 106-743.2 is a bona fide farm purpose. A farmer seeking to benefit from this subsection shall have the burden of establishing that the property's sale of nonfarm products did not exceed twenty-five percent (25%) of its gross sales. A county may adopt an ordinance pursuant to this section that sets forth the standards necessary for proof of compliance.

1 ~~Nothing in this section shall affect the county's authority to zone swine farms pursuant to~~
2 ~~G.S. 153A-340(b)(3)."~~

3
4 **ALLOW FOOD COMPLIANCE INSPECTORS TO DRIVE STATE VEHICLES**
5 **WITHOUT STATE TAGS AND BUMPER STICKERS**

6 **SECTION 10.** G.S. 20-39.1 is amended by adding a new subsection to read:

7 **"§ 20-39.1. Publicly owned vehicles to be marked; private license plates on publicly**
8 **owned vehicles.**

9 (a) Except as otherwise provided in this section, the executive head of every department
10 of State government and every county, institution, or agency of the State shall mark every
11 motor vehicle owned by the State, county, institution, or agency with a statement that the
12 vehicle belongs to the State, county, institution, or agency. The requirements of this subsection
13 are complied with if:

14 (1) The vehicle has imprinted on the license plate, above the license number, the
15 words "State Owned" and the vehicle has affixed to the front the words
16 "State Owned";

17 (2) In the case of a county, the vehicle has painted or affixed on its side a circle
18 not less than eight inches in diameter showing a replica of the seal of the
19 county; or

20 (3) In the case of vehicles assigned to members of the Council of State, the
21 vehicle has imprinted on the license plate the license number assigned to the
22 appropriate member of the Council of State pursuant to G.S. 20-79.5(a); a
23 member of the Council of State shall not be assessed any registration fee if
24 the member elects to have a State-owned motor vehicle assigned to the
25 member designated by the official plate number.

26 (b) A motor vehicle used by any State or county officer or official for transporting,
27 apprehending, or arresting persons charged with violations of the laws of the United States or
28 the laws of this State is not required to be marked as provided in subsection (a) of this section.
29 The Commissioner may lawfully provide private license plates to local, State, or federal
30 departments or agencies for use on publicly owned or leased vehicles used for those purposes.
31 Private license plates issued under this subsection shall be issued on an annual basis and the
32 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

33 (c) A motor vehicle used by a county for transporting day or residential facility clients
34 of area mental health, developmental disabilities, and substance abuse authorities established
35 under Article 4 of Chapter 122C of the General Statutes is not required to be marked as
36 provided in subsection (a) of this section. The Commissioner may lawfully provide private
37 license plates to counties for use on publicly owned or leased vehicles used for that purpose.
38 Private license plates issued under this subsection shall be issued on an annual basis and the
39 records of issuance shall be maintained in accordance with the provisions of G.S. 20-56.

40 (c1) A motor vehicle used by the Department of Agriculture and Consumer Services
41 exclusively for Meat and Poultry compliance officers to conduct inspections is not required to
42 be marked as provided in subsection (a) of this section. The Commissioner may lawfully
43 provide private license plates to the Department of Agriculture and Consumer Services for use
44 on publicly owned or leased vehicles used for this purpose. Private license plates issued under
45 this subsection shall be issued on an annual basis and the records of issuance shall be
46 maintained in accordance with the provisions of G.S. 20-56.

47 "

48
49 **MEAT AND POULTRY TECHNICAL CORRECTIONS**

50 **SECTION 11.(a)** G.S. 106-549.15(1) reads as rewritten:

51 **"§ 106-549.15. Definitions.**

As used in this Article, except as otherwise specified, the following terms shall have the meanings stated below:

(1) "Adulterated" shall apply to any carcass, part thereof, meat or meat food product under one or more of the following circumstances:

a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

b. 1. If it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;

2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

3. If it bears or contains any food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

4. If it bears or contains any color additive which is unsafe within the meaning of section ~~706-721~~ of the Federal Food, Drug, and Cosmetic Act: Provided, that an article which is not adulterated under clause 2, 3, or 4 shall nevertheless be deemed adulterated if use of the pesticide chemical, food additive or color additive in or on such article is prohibited by order of the Commissioner in establishments at which inspection is maintained under this Article;

...."

SECTION 11.(b) G.S. 106-549.51 reads as rewritten:

"§ 106-549.51. Definitions.

For purposes of this Article, the following terms shall have the meanings stated below:

(1) "Adulterated" shall apply to any poultry product under one or more of the following circumstances:

a. If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance, such article shall not be considered adulterated under this clause if the quantity of such substance in or on such article does not ordinarily render it injurious to health;

b. 1. If it bears or contains (by reason of administration of any substance to the live poultry or otherwise) any added poisonous or added deleterious substance (other than one which is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive) which may, in the judgment of the Commissioner, make such article unfit for human food;

2. If it is, in whole or in part, a raw agricultural commodity and such commodity bears or contains a pesticide chemical which

- 1 is unsafe within the meaning of section 408 of the Federal
2 Food, Drug, and Cosmetic Act;
3 3. If it bears or contains any food additive which is unsafe
4 within the meaning of section 409 of the Federal Food, Drug,
5 and Cosmetic Act;
6 4. If it bears or contains any color additive which is unsafe
7 within the meaning of section ~~706~~721 of the Federal Food,
8 Drug, and Cosmetic Act: Provided, that an article which is
9 not otherwise deemed adulterated under paragraphs 2, 3, or 4
10 shall nevertheless be deemed adulterated if use of the
11 pesticide chemical, food additive, or color additive in or on
12 such article is prohibited by regulations of the Board in
13 official establishments;

14"

16 MODERNIZE FOREST RANGER STATUTES

17 SECTION 12.(a) G.S. 106-896 reads as rewritten:

18 "§ 106-896. Forest rangers, deputy rangers, and emergency workers."

19 The Commissioner or the Commissioner's designee may appoint one county forest ranger
20 and one or more deputy forest rangers in each county of the State in which, after careful
21 investigation, the amount of forestland and the risks from forest fires shall, in his judgment,
22 warrant the establishment of a forest fire organization. authorize as many forest rangers, deputy
23 rangers, or emergency workers as the Commissioner deems necessary and available. For
24 purposes of this Article, the following definitions apply:

- 25 (1) "Deputy ranger" means a highly trained emergency worker hired on a
26 temporary basis to respond to a given emergency or condition. A deputy
27 ranger shall be sworn or affirmed to the terms of "General Oath" as provided
28 in G.S. 11-11. A deputy ranger shall have the powers and duties as
29 enumerated in G.S. 106-899.
30 (2) "Emergency worker" means a person who is not an employee of the NC
31 Forest Service but is an individual serving on a temporary basis in case of
32 fire, storm, snow, earthquake, flood, or other similar emergency. Except for
33 a deputy ranger, an emergency worker is not sworn or affirmed to the terms
34 of "General Oath" provided in G.S. 11-11.
35 (3) "Forest ranger" means an employee of the North Carolina Forest Service
36 who has been sworn or affirmed to the terms of "General Oath" provided in
37 G.S. 11-11. A forest ranger shall have the powers and duties as enumerated
38 in G.S. 106-898 and G.S. 106-899."

39 SECTION 12.(b) G.S. 106-899 reads as rewritten:

40 "§ 106-899. Powers of forest rangers and deputy rangers to prevent and extinguish fires; 41 authority to issue citations and warning tickets."

42 (a) Forest rangers or deputy rangers shall prevent and extinguish forest fires and shall
43 have control and direction of all persons and equipment while engaged in the extinguishing of
44 forest fires. During a season of drought, the Commissioner or his designate may establish a fire
45 patrol in any district, and in case of fire in or threatening any forest or woodland, the forest
46 ranger or deputy ranger shall attend forthwith and use all necessary means to confine and
47 extinguish such fire. The forest ranger or deputy forest ranger may summon any resident
48 between the ages of 18 and 45 years, inclusive, to assist in extinguishing fires and may require
49 the use of crawler tractors and other property needed for such purposes; any person so
50 summoned and who is physically able who refuses or neglects to assist or to allow the use of
51 equipment and such other property required shall be guilty of a Class 3 misdemeanor and upon

conviction shall only be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00). No action for trespass shall lie against any forest ranger, deputy forest ranger, or person summoned by ~~him-a forest ranger~~ for crossing lands, backfiring, burning out or performing his duties as a forest ranger or deputy forest ranger.

(b) Forest rangers are authorized to issue and serve citations under the terms of G.S. 15A-302 and warning tickets under the terms of G.S. 106-901 for offenses under the forest laws. This subsection may not be interpreted to confer the power of arrest on forest rangers, and does not make them criminal justice officers within the meaning of G.S. 17C-2."

SECTION 12.(c) G.S. 106-902 reads as rewritten:

"§ 106-902. Compensation of forest ~~rangers,rangers, deputy rangers, and emergency workers.~~

Forest ~~rangers-rangers, deputy rangers, and emergency workers~~ shall receive compensation from the Department at a reasonable rate to be fixed by said Department for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transportation, or food supplies incurred in the performance of their duties, according to an itemized statement to be rendered the Commissioner every month, and approved by him. Forest rangers shall render to the Commissioner a statement of the services rendered by the men employed by them or their deputy rangers, as provided in this Article, within one month of the date of service, which bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the Commissioner. If said bill be duly approved by the Commissioner, it shall be paid by direction of the Department out of any funds provided for that purpose."

SECTION 12.(d) G.S. 106-907 reads as rewritten:

"§ 106-907. Instructions on forest preservation and development.

(a) It shall be the duty of all ~~district, county, township rangers, and all deputy forest rangers~~ provided for in this Chapter to distribute in all of the public schools and high schools of the county in which they are serving as such ~~fire-forest~~ rangers all such tracts, books, periodicals and other literature that may, from time to time, be sent out to such rangers by the State and federal forestry agencies touching or dealing with forest preservation, development, and forest management.

(b) It shall be the duty of the ~~various-forest~~ rangers herein mentioned under the direction of the Commissioner, and the duty of the teachers of the various schools, both public and high schools, to keep posted at some conspicuous place in the various classrooms of the school buildings such appropriate bulletins and posters as may be sent out from the forestry agencies herein named for that purpose and keep the same constantly before their pupils; and said teachers and rangers shall prepare lectures or talks to be made to the pupils of the various schools on the subject of forest fires, their origin and their destructive effect on the plant life and tree life of the forests of the State, the development and scientific management of the forests of the State, and shall be prepared to give practical instruction to their pupils from time to time and as often as they shall find it possible so to do."

SECTION 12.(e) G.S. 106-941 reads as rewritten:

"§ 106-941. Definitions.

As used in this Article:

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "Forest ranger" means ~~the county forest ranger or deputy-a forest ranger~~ designated under ~~G.S. 106-896~~ G.S. 106-896(3).
- (3) "Person" means any individual, firm, partnership, corporation, association, public or private institution, political subdivision, or government agency.
- (4) "Woodland" means woodland as defined in G.S. 106-904."

SECTION 12.(f) G.S. 106-942 reads as rewritten:

"§ 106-942. High hazard counties; permits required; standards.

(a) The provisions of this section apply only to the counties of Beaufort, Bladen, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Duplin, Gates, Hyde, Jones, Onslow, Pamlico, Pasquotank, Perquimans, Tyrrell, and Washington which are classified as high hazard counties in accordance with G.S. 106-940.

(b) It is unlawful for any person to willfully start or cause to be started any fire in any woodland under the protection of the Department or within 500 feet of any such woodland without first having obtained a permit from the Department. Permits for starting fires may be obtained from forest rangers or other agents authorized by the ~~county~~ forest ranger to issue such permits in the county in which the fire is to be started. Such permits shall be issued by the ranger or other agent unless permits for the area in question have been prohibited or cancelled in accordance with G.S. 106-944 or G.S. 106-946.

...."

ALLOW EMERGENCY WORKERS TO RECEIVE WORKERS' COMPENSATION WHEN RESPONDING TO NONFIRE EMERGENCIES

SECTION 13. G.S. 97-2 reads as rewritten:

"§ 97-2. Definitions.

When used in this Article, unless the context otherwise requires:

...

- (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 capacity of deputy sheriffs, whether appointed by the sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full-time basis or a part-time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The sheriff shall furnish to the board of county commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment and notify the board of commissioners of any changes made therein promptly after such changes are made. Any reference to an employee who has been injured shall, when the employee is dead, include also the employee's legal representative, dependents, and other persons to whom compensation may be payable: Provided, further, that any employee, as herein defined, of a municipality, county, or of the State of North Carolina, while engaged in the discharge of the employee's official duty outside the jurisdictional or territorial limits of the municipality, county,

1 or the State of North Carolina and while acting pursuant to authorization or
2 instruction from any superior officer, shall have the same rights under this
3 Article as if such duty or activity were performed within the territorial
4 boundary limits of their employer.

5 Except as otherwise provided herein, every executive officer elected or
6 appointed and empowered in accordance with the charter and bylaws of a
7 corporation shall be considered as an employee of such corporation under
8 this Article.

9 Any such executive officer of a corporation may, notwithstanding any
10 other provision of this Article, be exempt from the coverage of the
11 corporation's insurance contract by such corporation's specifically excluding
12 such executive officer in such contract of insurance, and the exclusion to
13 remove such executive officer from the coverage shall continue for the
14 period such contract of insurance is in effect, and during such period such
15 executive officers thus exempted from the coverage of the insurance contract
16 shall not be employees of such corporation under this Article.

17 All county agricultural extension service employees who do not receive
18 official federal appointments as employees of the United States Department
19 of Agriculture and who are field faculty members with professional rank as
20 designated in the memorandum of understanding between the North
21 Carolina Agricultural Extension Service, North Carolina State University, A
22 & T State University, and the boards of county commissioners shall be
23 deemed to be employees of the State of North Carolina. All other county
24 agricultural extension service employees paid from State or county funds
25 shall be deemed to be employees of the county board of commissioners in
26 the county in which the employee is employed for purposes of workers'
27 compensation.

28 The term "employee" shall also include members of the Civil Air Patrol
29 currently certified pursuant to G.S. 143B-1031(a) when performing duties in
30 the course and scope of a State-approved mission pursuant to Subpart C of
31 Part 5 of Article 13 of Chapter 143B of the General Statutes.

32 "Employee" shall not include any person performing voluntary service as
33 a ski patrolman who receives no compensation for such services other than
34 meals or lodging or the use of ski tow or ski lift facilities or any combination
35 thereof.

36 "Employee" shall not include any person elected or appointed and
37 empowered as an executive officer, director, or committee member under the
38 charter, articles, or bylaws of a nonprofit corporation subject to Chapter
39 47A, 47C, 47F, 55A, or 59B of the General Statutes, or any organization
40 exempt from federal income tax under section 501(c)(3) of the Internal
41 Revenue Code, who performs only voluntary service for the nonprofit
42 corporation, provided that the person receives no remuneration for the
43 voluntary service other than reasonable reimbursement for expenses incurred
44 in connection with the voluntary service. When a nonprofit corporation as
45 described herein employs one or more persons who do receive remuneration
46 other than reasonable reimbursement for expenses, then any volunteer
47 officers, directors, or committee members excluded from the definition of
48 "employee" by operation of this paragraph shall be counted as employees for
49 the sole purpose of determining the number of persons regularly employed
50 in the same business or establishment pursuant to G.S. 97-2(1). Other than
51 for the limited purpose of determining the number of persons regularly

employed in the same business or establishment, such volunteer nonprofit officers, directors, or committee members shall not be "employees" under the Act. Nothing herein shall prohibit a nonprofit corporation as described herein from voluntarily electing to provide for workers' compensation benefits in the manner provided in G.S. 97-93 for volunteer officers, directors, or committee members excluded from the definition of "employee" by operation of this paragraph. This paragraph shall not apply to any volunteer firefighter, volunteer member of an organized rescue squad, an authorized ~~pickup firefighter~~ emergency worker when that individual is engaged in emergency fire suppression activities for the North Carolina Forest Service, a duly appointed and sworn member of an auxiliary police department organized pursuant to G.S. 160A-282, or a senior member of the State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of Chapter 143B of the General Statutes, even if such person is elected or appointed and empowered as an executive officer, director, or committee member under the charter, articles, or bylaws of a nonprofit corporation as described herein.

Any sole proprietor or partner of a business or any member of a limited liability company may elect to be included as an employee under the workers' compensation coverage of such business if he or she 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~~ emergency worker 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~~ emergency worker" means an individual who has completed required ~~fire suppression~~ emergency response training as ~~a wildland firefighter~~ required by the North Carolina Forest Service and who is available as needed by the North Carolina Forest Service for emergency ~~fire suppression~~ activities, including immediate dispatch to ~~wildfires~~ wildfires, snow events, hurricanes, earthquakes, floods, or other emergencies, 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.

...."

CREATE EXCEPTION FROM CONSERVATION BENEFIT ANALYSIS FOR CERTAIN EASEMENTS

SECTION 14. G.S. 121-39.1 reads as rewritten:

"§ 121-39.1. Termination or modification of agreements.

...

(g) This section shall not apply to a condemnation action initiated by a condemnor governed by Article 6 of Chapter 40A of the General Statutes, or to a voluntary termination or modification affecting no more than the lesser of two percent (2%) or one acre of the total easement area of the conservation agreement when requested by a public utility, the Department of Transportation, or a government entity having eminent domain authority under Article 3 of Chapter 40A of the General Statutes."

EXEMPT FARM TRUCKS THAT STAY IN STATE FROM HAVING A USDOT IDENTIFICATION NUMBER

SECTION 15. G.S. 20-101 reads as rewritten:

"§ 20-101. Certain business vehicles to be marked.

(a) A motor vehicle that is subject to 49 C.F.R. Part 390, the federal motor carrier safety regulations, shall be marked as required by that Part.

(b) A motor vehicle with a gross vehicle weight rating of more than 26,000 pounds that is used in intrastate commerce shall have (i) the name of the owner and (ii) the motor carrier's identification number preceded by the letters "USDOT" and followed by the letters "NC" printed on each side of the vehicle in letters not less than three inches in height. The provisions of this subsection shall not apply if any of the following are true:

(1) The motor vehicle is subject to 49 C.F.R. Part 390.

(2) The motor vehicle is of a type listed in 49 C.F.R. 390.3(f).

(3) The motor vehicle is licensed at the farmer rate under G.S. 20-88.

(c) A motor vehicle that is subject to regulation by the North Carolina Utilities Commission shall be marked as required by that Commission and as otherwise required by this section.

(d) A motor vehicle equipped to tow or transport another motor vehicle, hired for the purpose of towing or transporting another motor vehicle, shall have the name and address of the registered owner of the vehicle, and the name of the business or person being hired if different, printed on each side of the vehicle in letters not less than three inches in height. This subsection shall not apply to motor vehicles subject to 49 C.F.R. Part 390."

EXEMPT CLOSURE OF HOG LAGOONS FROM REQUIRING THE USE OF A PROFESSIONAL ENGINEER

SECTION 16. G.S. 89C-25 reads as rewritten:

"§ 89C-25. Limitations on application of Chapter.

This Chapter shall not prevent the following activities:

(1) The practice of architecture as defined in Chapter 83A of the General Statutes, landscape architecture as defined in Chapter 89A of the General Statutes, or contracting as defined in Articles 1, 2, 4, and 5 of Chapter 87 of the General Statutes.

(2) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

(3) Repealed by Session Laws 2011-304, s. 7, effective June 26, 2011.

(4) Engaging in engineering or land surveying as an employee or assistant under the responsible charge of a professional engineer or professional land surveyor.

(5) The practice of professional engineering or land surveying by any person not a resident of, and having no established place of business in this State, as a consulting associate of a professional engineer or professional land surveyor licensed under the provisions of this Chapter; provided, the nonresident is qualified for performing the professional service in the person's own state or country.

- 1 (6) Practice by members of the Armed Forces of the United States; employees
2 of the government of the United States while engaged in the practice of
3 engineering or land surveying solely for the government on
4 government-owned works and projects; or practice by those employees of
5 the Natural Resources Conservation Service, county employees, or
6 employees of the Soil and Water Conservation Districts who have federal
7 engineering job approval authority that involves the planning, designing, or
8 implementation of best management practices on agricultural lands.
- 9 (7) Repealed by Session Laws 2014-120, s. 11(a), effective September 18, 2014.
- 10 (7a) The engineering or surveying activities of a person as defined by
11 G.S. 89C-3(5) who is engaged in manufacturing, processing, producing, or
12 transmitting and delivering a product or public utility service, and which
13 activities are reasonably necessary and connected with the primary services
14 performed by individuals regularly employed in the ordinary course of
15 business by the person, provided that the engineering or surveying activity is
16 not a holding out or an offer to the public of engineering or surveying
17 services, as prohibited by this Chapter. The engineering and surveying
18 services may not be offered, performed, or rendered independently from the
19 primary services rendered by the person. For purposes of this subdivision,
20 "activities reasonably necessary and connected with the primary service"
21 include the following:
- 22 a. Installation or servicing of the person's product or public utility
23 service by employees of the person conducted outside the premises
24 of the person's business.
- 25 b. Design, acquisition, installation, or maintenance of machinery,
26 equipment, or apparatus incidental to the manufacture or installation
27 of the product or public utility service performed by employees of
28 the person upon property owned, leased, or used by the person.
- 29 c. Research and development performed in connection with the
30 manufacturing, processing, or production of the person's product or
31 public utility service by employees of the person.
- 32 Engineering or surveying activities performed pursuant to this
33 subdivision, where the safety of the public is directly involved, shall be
34 under the responsible charge of a licensed professional engineer or licensed
35 professional surveyor.
- 36 (8) The (i) preparation of fire sprinkler planning and design drawings by a fire
37 sprinkler contractor licensed under Article 2 of Chapter 87 of the General
38 Statutes, or (ii) the performance of internal engineering or survey work by a
39 manufacturing or communications common carrier company, or by a
40 research and development company, or by employees of those corporations
41 provided that the work is in connection with, or incidental to products of, or
42 nonengineering services rendered by those corporations or their affiliates.
- 43 (9) The routine maintenance or servicing of machinery, equipment, facilities or
44 structures, the work of mechanics in the performance of their established
45 functions, or the inspection or supervision of construction by a foreman,
46 superintendent, or agent of the architect or professional engineer, or services
47 of an operational nature performed by an employee of a laboratory, a
48 manufacturing plant, a public service corporation, or governmental
49 operation.
- 50 (10) The design of land application irrigation systems for an animal waste
51 management plan, required by G.S. 143-215.10C, by a designer who

exhibits, by at least three years of relevant experience, proficiency in soil science and basic hydraulics, and who is thereby listed as an Irrigation Design Technical Specialist by the North Carolina Soil and Water Conservation Commission.

- (11) The closure of waste impoundments for animal waste management systems, as defined by G.S. 143-215.10B(3), by a person who is designated as a Technical Specialist in the Waste Utilization Plan/Nutrient Management Category by the North Carolina Soil and Water Conservation Commission.
This subsection shall not apply to the design or installation of a spillway."

EXEMPT FARM VEHICLES ENGAGED IN INTRASTATE COMMERCE FROM CERTAIN FEDERAL MOTOR CARRIER SAFETY REGULATIONS

SECTION 17.(a) G.S. 20-381 is amended by adding a new subsection to read:

"§ 20-381. Specific powers and duties of Department of Public Safety applicable to motor carriers; agricultural exemption.

(a) The Department of Public Safety has the following powers and duties concerning motor carriers:

- (1) To prescribe qualifications and maximum hours of service of drivers and their helpers.
- (1a) To set safety standards for vehicles of motor carriers engaged in foreign, interstate, or intrastate commerce over the highways of this State and for the safe operation of these vehicles. The Department of Public Safety may stop, enter upon, and perform inspections of motor carriers' vehicles in operation to determine compliance with these standards and may conduct any investigations and tests it finds necessary to promote the safety of equipment and the safe operation on the highway of these vehicles.
- (1b) To enforce this Article, rules adopted under this Article, and the federal safety and hazardous materials regulations.
- (2) To enter the premises of a motor carrier to inspect a motor vehicle or any equipment used by the motor carrier in transporting passengers or property.
- (2a) To prohibit the use by a motor carrier of any motor vehicle or motor vehicle equipment the Department of Public Safety finds, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown in the transportation of passengers or property on a highway. If an agent of the Department of Public Safety finds a motor vehicle of a motor carrier in actual use upon the highways in the transportation of passengers or property that, by reason of its mechanical condition or loading, would be likely to cause a crash or breakdown, the agent shall declare the vehicle "Out of Service." The agent shall require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is declared "Out of Service," no motor carrier operator shall require, or permit, any person to operate, nor shall any person operate, any motor vehicle equipment declared "Out of Service" until all repairs required by the "Out of Service" notice have been satisfactorily completed. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge

of such motor vehicle while under the influence of alcoholic beverages or impairing substances. It shall be the duty of all inspectors and agents of the Department of Public Safety to make a written report, upon a form prescribed by the Department of Public Safety, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of this Chapter or, if the motor vehicle is subject to regulation by the North Carolina Utilities Commission, of Chapter 62 of the General Statutes.

(3) To relieve the highways of all undue burdens and safeguard traffic thereon by adopting and enforcing rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all hazardous materials and other commodities.

(4) To determine the safety fitness of intrastate motor carriers, to assign safety ratings to intrastate motor carriers as defined in 49 C.F.R. § 385.3, to direct intrastate motor carriers to take remedial action when required, to prohibit the operation of intrastate motor carriers rated unsatisfactory, to determine whether the continued operations of intrastate motor carriers pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1), and to prohibit the operation of an intrastate motor carrier found to be an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

(5) To prohibit the intrastate operation of a motor carrier subject to an order issued by the Federal Motor Carrier Safety Administration to cease all operations based on a finding that the continued operations of the motor carrier pose an "imminent hazard" as defined in 49 C.F.R. § 386.72(b)(1).

(b) The definitions set out in 49 Code of Federal Regulations § 171.8 apply to this subsection. The transportation of an agricultural product, other than a Class 2 material, over local roads between fields of the same farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Parts 171 through 180 of 49 CFR as provided in 49 CFR § 173.5(a). The transportation of an agricultural product to or from a farm within 150 miles of the farm by a farmer operating as an intrastate private motor carrier is exempt from the requirements of Subparts G and H of Part 172 of 49 CFR as provided in 49 CFR § 173.5(b).

(c) For purposes of 49 C.F.R. § 395.1(k) and any other federal law or regulation relating to hours-of-service rules for drivers engaged in the transportation of agricultural commodities and farm supplies for agricultural purposes, the terms "planting and harvesting season" and "planting and harvesting period" refer to the period from January 1 through December 31 of each year.

(d) The definitions set out in 49 C.F.R. § 390.5 apply to this subsection. A covered farm vehicle engaged in intrastate commerce is exempt from the requirements of 49 C.F.R. § 390.21."

SECTION 17.1.(a) Rule. – Until the effective date of the revised permanent rule that the Division of Motor Vehicles is required to adopt pursuant to subsection (c) of this section, the Division shall implement 14B NCAC 07C .0101 (Safety of Operation and Equipment) as provided in subsection (b) of this section.

SECTION 17.1.(b) Implementation. – Notwithstanding 14B NCAC 07C .0101, the Division shall exempt covered farm vehicles engaged in intrastate commerce from the requirements of 49 C.F.R. § 390.21.

SECTION 17.1.(c) Additional Rule-Making Authority. – The Division shall adopt rules to amend 14B NCAC 07C .0101, consistent with subsection (b) of this section.

1 **SECTION 17.1.(d)** Effective Date. – Subsection (b) of this section expires on the
2 date that rules adopted pursuant to subsection (c) of this section become effective. The
3 remainder of this section is effective when it becomes law.
4

5 **SEVERABILITY/EFFECTIVE DATE**

6 **SECTION 18.** If any provision of this Act or the application thereof to any person
7 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
8 of the act which can be given effect without the invalid provision or application, and, to this
9 end, the provisions of this act are declared to be severable.

10 **SECTION 19.** Except as otherwise provided, this act is effective when it becomes
11 law.



HOUSE BILL 56: Amend Environmental Laws.

This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Reps. McElraft, Yarborough
Analysis of: PCS to First Edition
H56-CSRI-1

Date: April 20, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 56 would amend various environmental laws.*

CURRENT LAW, BACKGROUND and BILL ANALYSIS:

PART I -- MODIFY REQUIREMENTS FOR PREPARATION OF EMERGENCY ACTION PLANS FOR DAM SAFETY

Current law requires the owners of dams classified as high- or intermediate-hazard to develop an Emergency Action Plan for the dam and submit the plan to the Department of Environmental Quality (Department) and the Department of Public Safety. In addition to requirements for descriptions of actions to be taken in response to an emergency condition at the dam, and emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam, a Plan must include downstream inundation maps depicting areas that would be affected by a dam failure and sudden release of the impoundment. Such maps currently do not require preparation by a professional engineer unless the dam is associated with a coal ash pond.

Section 1 of the PCS would modify existing law to require that a downstream inundation map be prepared by a professional engineer, or a person under their responsible charge, if the Department determines that preparation by a professional engineer is necessary to protect public health, safety, and welfare; the environment; or natural resources.

PART II -- FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

Current law requires persons conducting risk-based¹ remediation of a contaminated site to establish financial assurance that will ensure that sufficient funds are available to implement and maintain the actions or controls specified in the remedial action plan for the site.

Section 2 of the PCS would modify financial assurance requirements for persons conducting risk-based remediation by allowing the Department to waive the financial assurance requirement if the Department finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

¹ Cleanup using site-specific cleanup standards designed to protect public health, safety, and welfare and the environment based on the current and anticipated future use of a site, which are generally not as stringent as the applicable unrestricted use standards.

Karen Cochrane-Brown
Director



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Division
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- Annual reporting of land use controls.
- The maintenance of durable or low-maintenance covers for contaminated soil.

PART III. REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

Under current law G.S. 130A-294(k) requires generators of hazardous waste and operators of hazardous waste facilities to submit, in association with payment of required fees, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste.

Section 3(a) of the PCS would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced, and that generators meet the waste minimization criteria through other requirements.

Under current law G.S. 130A-309.17 requires registration of persons transporting, collecting, or recycling specific amounts of used oil, and imposes reporting requirements. Associated fees for these activities were repealed in 2015, but the registration and reporting requirement was left intact

Section 3(b) of the PCS would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced.

PART IV. LAND USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

Current law requires that a remedial action plan for cleanup of environmental damage from a discharge or release of petroleum from an underground storage tank (UST) include an agreement by the person responsible for the discharge or release to record a notice of any applicable land-use restrictions on the on the current or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup².

Section 4(a) of the PCS would add discharges or releases of petroleum from aboveground storage tanks (AST) and other sources (discharges or releases not from an UST or AST) to the requirement that a remedial action plan for cleanup of the contamination or release from these sources include an agreement to record a notice of any applicable land-use restrictions. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for land-use restrictions) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

Current law requires that a person responsible for the discharge or release of petroleum from an UST to record a "NOTICE OF RESIDUAL PETROLEUM" if residual petroleum is left on a property after a risk-based cleanup has occurred and record a notice of any applicable land-use restrictions on the current

² Generally, cleanup of environmental contamination must be performed to meet unrestricted use standards, meaning contaminant concentrations present at a location are acceptable for all uses; are protective of public health, safety, and welfare and the environment; and comply with an applicable program's standards established by statute or rule adopted by the Environmental Management Commission, the Commission for Public Health, or the Department of Environmental Quality (DEQ). Risk-based cleanup, however, allows cleanup based on site-specific risk factors, which are generally not as stringent as the applicable unrestricted use standards.

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or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup. This notice must be filed in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs.

Section 4(b) of the PCS would add discharges or releases of petroleum from ASTs and other sources (discharges or releases not from an UST or AST) to the requirement for recordation of such a notice. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for recording a notice of residual petroleum) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

PART V. CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

Current law obligates the owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater, and for which a permit is required, to do all of the following: (i) for those systems having an average annual flow of greater than 200,000 gallons per day, provide an annual report to the system's customers on the system's performance; (ii) report discharges of 1,000 gallons or more of untreated wastewater to the surface waters of the State to the Department as soon as practicable, but no later than 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State, and issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge; (iii) in the event of a discharge of 15,000 gallons or more of untreated wastewater to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. Similar requirements apply to owners and operators of wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater.

Section 5 of the PCS would:

- Eliminate the limiting language that only applies these requirements to systems for which a permit is required.
- Modify the reporting trigger, to require that an owner or operator must report discharges of 1,000 gallons or more of untreated wastewater to land, or a spill of any amount that reaches waters of the State, within 24 hours after the owner or operator has first knowledge of the spill.

PART VI. MISCELLANEOUS CHANGES TO WATER QUALITY PROVISIONS

Section 6 of the PCS would make various changes to the statute governing control of sources of water pollution, and establishes permit requirements for the sources of water pollution as follows:

- Repeal a provision regarding high infiltration wastewater disposal systems, which provides that such systems meeting certain standards, are to be considered "nondischarge systems" and states that the "outfall of any associated groundwater lowering device shall be considered groundwater provided the outfall does not violate water quality standards." The Department reports that the

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statute should be repealed as: (i) it has been determined by the United States Environmental Protection Agency (USEPA) that the statute allows for a direct conduit to surface waters, which is a violation of the federal Clean Water Act; and (ii) given that the USEPA has determined that such a system allows a discharge for which a National Pollutant Discharge Elimination System (NPDES) permit is required, unless the language is repealed such a system would be required to obtain two separate permits for the same facility, resulting in an undue burden on the facility, and Department staff.

- Amend a provision governing applications for permits and renewals for facilities that discharge to surface waters, which currently provides that the Environmental Management Commission (EMC) must grant or deny an application for a new or renewed permit, no later than 60 days following a notice of intent, or if a public hearing is held, within 90 days following consideration of the matters presented at the hearing.

The PCS would modify the timeclock under current law to provide that the EMC must issue a decision to grant or deny a permit within 90 days following: (i) any required State or federal review, or (ii) if a public hearing is held, after consideration of materials presented at the hearing.

- Amend a provision governing applications and permits for sewer systems, sewer system extensions and pretreatment facilities, land application of waste, and for wastewater treatment facilities not discharging to the surface waters of the State, which currently provides: (i) the EMC must act on a permit application "as quickly as possible", but providing that if the EMC fails to act on a permit application, including a renewal, within 90 days after the applicant submits all information required by the EMC, the application is considered to be approved; and (ii) that permit and renewals are effective until the date specified therein or until rescinded, unless modified or revoked by the EMC.

The PCS would modify this provision by: (i) requiring the Department to determine a permit application's completeness within 90 days of receipt of the application, and establishing a process for the Department to procure additional information from an applicant with additional time allowed for review of that information, as necessary; (ii) requiring the Department to issue a permit decision on a permit application within one year after the Department determines that the application is complete; (iii) providing that if the Department fails to act within any required timeframe, the applicant may treat the failure to act as a denial of the permit and may challenge the denial under the Administrative Procedure Act.

- Amend a provision that currently: (i) requires disposal systems permitted under the water quality or solid waste statutes to have a compliance boundary beyond which groundwater quality standards may not be exceeded; and (ii) provides that multiple contiguous properties under common ownership and permitted for use as a disposal system must be treated as a single property with regard to determination of such a boundary.

The PCS would modify the provision governing multiple contiguous properties under common ownership, to provide that they would also be treated as a single property for the purposes of establishing setbacks to property lines.

PART VII. CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

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Current law requires the Department to develop a State water supply plan, with the stated purpose of assuring "the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth..."

Section 7(a) of the PCS would repeal this provision at the request of the Department, to reflect an approach of combined water quality and quantity planning into a consolidated plan for water resources.

Current law requires the Department to report to the Environmental Review Commission (ERC) on the implementation of the Department's powers and duties as it relates to its management of water resources, including information on the development of the State water supply plan and the development of basinwide hydrologic models.

Section 7(b) of the PCS would repeal the reference to the State water supply plan, at the request of the Department, to reflect an approach of combined water quality and quantity into a consolidated plan for water resources.

PART VIII. COASTAL AREA MANAGEMENT ACT MODIFICATIONS

ALLOW DELEGATION OF CAMA LAND-USE PLAN APPROVAL AUTHORITY TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AMEND CAMA PERMIT NOTICE REQUIREMENTS

Under current law, the Coastal Area Management Act (CAMA) requires each coastal-area county³ to prepare a land-use plan⁴, which must be approved by the Coastal Resources Commission (CRC).

Section 8(a) of the PCS would allow the CRC to delegate approval of county land-use plans to any qualified employee of the Department.

Under current law, CAMA requires the Secretary of Environmental Quality to issue public notice of a development permit application, upon receipt of the application. Notice must be made by:

- Mail to persons who have requested notice and interested State agencies.
- Posting a notice at the location of the proposed development.
- And, with the exception of a permit application for minor development⁵, by publishing notice of the application at least once in one newspaper of general circulation in the county or counties where the development would be located.

³ Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

⁴ Under CAMA, land-use plans must consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, and must give special attention to the protection and appropriate development of areas of environmental concern designated under CAMA.

⁵ A "major development" is any development which requires permission, licensing, approval, certification or authorization in any form from the EMC, the Department, the Department of Administration, the North Carolina Oil and Gas Commission, the North Carolina Pesticides Board, the North Carolina Sedimentation Control Commission, or any federal agency or authority; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating

House PCS 56

Page 6

Section 8(b) of the PCS would except minor permit applications from the requirement for notice by posting at the location of the proposed development.

PART IX. MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

Under current law, Article II of Chapter 113 of the General Statutes governs the State's participation in the Interstate Wildlife Violator Compact. The Article defines wildlife, in part, to mean:

"... all species of animals that are protected or regulated by the Wildlife Resources Commission, the Marine Fisheries Commission, or the Division of Marine Fisheries in the Department of Environmental Quality. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state..."

The governing statutes otherwise assign the Marine Fisheries Commission (MFC) and the Division of Marine Fisheries (DMF) with various powers and duties related to the Compact.

Sections 9(a) and 9(b) of the PCS would delete all references to the MFC and the DMF from the Article.

PART X. USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL ACCOUNT

Under current law, funds in the I & M Air Pollution Control Account must be applied to the costs of developing and implementing an air pollution control program for mobile sources.

Section 10 of the PCS would delete the reference to "mobile sources", allowing funds from the account to be applied for development and implementation of air pollution control programs for both mobile and stationary sources.

PART XI. EFFECTIVE DATE

This PCS would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

3

HOUSE BILL 56
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/24/17

Short Title: Amend Environmental Laws.

(Public)

Sponsors:

Referred to:

February 8, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
The General Assembly of North Carolina enacts:

**PART I. MODIFY REQUIREMENTS FOR PREPARATION OF EMERGENCY
ACTION PLANS FOR DAM SAFETY**

SECTION 1. 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;

(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~~ G.S. 130A-309.201, or the Department determines that preparation by a professional engineer or a person under the responsible charge of a professional engineer is



necessary to protect public health, safety, and welfare; the environment; or natural resources.

- (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."

PART II. FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

SECTION 2. G.S. 130A-310.72 reads as rewritten:

"§ 130A-310.72. Financial assurance requirement.

The person conducting remediation of a contaminated ~~industrial~~ site pursuant to the provisions of this Part shall establish financial assurance that will ensure that sufficient funds are available to implement and maintain the actions or controls specified in the remedial action plan for the site. The person conducting remediation of a site may establish financial assurance through one of the following mechanisms, or any combination of the following mechanisms, in a form specified or approved by the Department: insurance products issued from entities having no corporate or ownership association with the person conducting the remediation; funded trusts; surety bonds; certificates of deposit; letters of credit; corporate financial tests; local government financial tests; corporate guarantees; local government guarantees; capital reserve funds; or any other financial mechanism authorized for the demonstration of financial assurance under (i) 40 Code of Federal Regulations Part 264, Subpart H (July 1, 2010 Edition) and (ii) Section .1600 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code. Proof of financial assurance shall be provided in the remedial action plan and annually thereafter on the anniversary date of the approval of the plan. The Department may waive the requirement for a person conducting remediation of a contaminated site pursuant to the provisions of this Part to establish or maintain financial assurance if the Department finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

- (1) Annual reporting of land-use controls.
- (2) The maintenance of durable or low-maintenance covers for contaminated soil."

PART III. REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

SECTION 3.(a) G.S. 130A-294(k) is repealed.

SECTION 3.(b) G.S. 130A-309.17 is repealed.

PART IV. LAND-USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

1 **SECTION 4.(a)** G.S. 143B-279.9(b) reads as rewritten:

2 **"§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at**
3 **contaminated sites.**

4 (b) The definitions set out in G.S. 143-215.94A apply to this subsection. A remedial
5 action plan for the cleanup of environmental damage resulting from a discharge or release of
6 petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143
7 of the General ~~Statutes~~ Statutes, other petroleum sources, or from an aboveground storage tank
8 pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes must include an
9 agreement by the owner, operator, or other party responsible for the discharge or release of
10 petroleum to record a notice of any applicable land-use restrictions that meet the requirements
11 of this subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall
12 apply except as specifically modified by this subsection and G.S. 143B-279.11. Any restriction
13 on the current or future use of real property pursuant to this subsection shall be enforceable
14 only with respect to: (i) real property on which the source of contamination is located and (ii)
15 any real property on which contamination is located at the time the remedial action plan is
16 approved and that was owned or controlled by any owner or operator of the underground
17 storage tank or other responsible party at the time the discharge or release of petroleum is
18 discovered or reported or at any time thereafter. No restriction on the current or future use of
19 real property shall apply to any portion of any parcel or tract of land on which contamination is
20 not located. This subsection shall not be construed to require any person to record any notice of
21 restriction on the current or future use of real property other than the real property described in
22 this subsection. For purposes of this subsection and G.S. 143B-279.11, the Secretary may
23 restrict current or future use of real property only as set out in any one or more of the following
24 subdivisions:

- 25 (1) Where soil contamination will remain in excess of unrestricted use
26 standards, the property may be used for a primary or secondary residence,
27 school, daycare center, nursing home, playground, park, recreation area, or
28 other similar use only with the approval of the Department.
29 (2) Where soil contamination will remain in excess of unrestricted use standards
30 and the property is used for a primary or secondary residence that was
31 constructed before the release of petroleum that resulted in the
32 contamination is discovered or reported, the Secretary may approve
33 alternative restrictions that are sufficient to reduce the risk of exposure to
34 contaminated soils to an acceptable level while allowing the real property to
35 continue to be used for a residence.
36 (3) Where groundwater contamination will remain in excess of unrestricted use
37 standards, installation or operation of any well usable as a source of water
38 shall be prohibited.
39 (4) Any restriction on the current or future use of the real property that is agreed
40 upon by both the owner of the real property and the Department.

41 Except with respect to land contaminated from a discharge or release of petroleum from an
42 underground storage tank, the imposition of restrictions on the current or future use of real
43 property on sites contaminated by the discharge or release of petroleum from an aboveground
44 storage tank, or another petroleum source, from which contamination has migrated to off-site
45 properties, as that term is defined under G.S. 130A-310.65(3a), shall only be allowed as
46 provided in G.S. 143-215.104AA, or G.S. 130A-310.73A, as applicable."

47 **SECTION 4.(b)** G.S. 143B-279.11 reads as rewritten:

48 **"§ 143B-279.11. Recordation of residual petroleum from ~~an~~—underground or**
49 **aboveground storage tank, tanks or other sources.**

50 (a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this
51 section. This section applies only to a cleanup pursuant to a remedial action plan that addresses

1 environmental damage resulting from a discharge or release of petroleum from an underground
2 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General ~~Statutes~~. Statutes
3 or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article
4 21A of Chapter 143 of the General Statutes.

5 (b) The owner, operator, or other person responsible for a discharge or release of
6 petroleum from an underground storage ~~tank-tank, aboveground storage tank, or other~~
7 petroleum source shall prepare and submit to the Department a proposed Notice that meets the
8 requirements of this section. The proposed Notice shall be submitted to the Department (i)
9 before the property is conveyed, or (ii) when the owner, operator, or other person responsible
10 for the discharge or release requests that the Department issue a determination that no further
11 action is required under the remedial action plan, whichever first occurs. The Notice shall be
12 entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that
13 would be sufficient as a description in an instrument of conveyance of the (i) real property on
14 which the source of contamination is located and (ii) any real property on which contamination
15 is located at the time the remedial action plan is approved and that was owned or controlled by
16 any owner or operator of the underground storage ~~tank-tank, aboveground storage tank, or other~~
17 petroleum source, or other responsible party at the time the discharge or release of petroleum is
18 discovered or reported or at any time thereafter. The Notice shall identify the location of any
19 residual petroleum known to exist on the real property at the time the Notice is prepared. The
20 Notice shall also identify the location of any residual petroleum known, at the time the Notice
21 is prepared, to exist on other real property that is a result of the discharge or release. The Notice
22 shall set out any restrictions on the current or future use of the real property that are imposed by
23 the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users
24 of the property.

25 (c) If the contamination is located on more than one parcel or tract of land, the
26 Department may require that the owner, operator, or other person responsible for the discharge
27 or release prepare a composite map or plat that shows all parcels or tracts. If the contamination
28 is located on one parcel or tract of land, the owner, operator, or other person responsible for the
29 discharge or release may prepare a map or plat that shows the parcel but is not required to do
30 so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the
31 requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the
32 Department has approved a map or plat, it shall be recorded in the office of the register of
33 deeds and shall be incorporated into the Notice by reference.

34 (d) The Department shall review the proposed Notice to determine whether the Notice
35 meets the requirements of this section and rules adopted to implement this section and shall
36 provide the owner, operator, or other person responsible for the discharge or release of
37 petroleum from an underground storage ~~tank-tank, aboveground storage tank, or other~~
38 petroleum source, with a notarized copy of the approved Notice. After the Department
39 approves the Notice, the owner, operator, or other person responsible for the discharge or
40 release of petroleum from an underground storage ~~tank-tank, aboveground storage tank, or~~
41 other petroleum source shall file a notarized copy of the approved Notice in the register of
42 deeds office in the county or counties in which the real property is located (i) before the
43 property is conveyed or (ii) within 30 days after the owner, operator, or other person
44 responsible for the discharge or release receives notice from the Department that no further
45 action is required under the remedial action plan, whichever first occurs. If the owner, operator,
46 or other person responsible for the discharge or release fails to file the Notice as required by
47 this section, any determination by the Department that no further action is required is void. The
48 owner, operator, or other person responsible for the discharge or release, may record the Notice
49 required by this section without the agreement of the owner of the real property. The owner,
50 operator, or other person responsible for the discharge or release shall submit a certified copy
51 of the Notice as filed in the register of deeds office to the Department.

(e) Repealed by Session Laws 2012-18, s. 1.23, effective July 1, 2012.

(f) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(h) Except with respect to land contaminated from a discharge or release of petroleum from an underground storage tank, the provisions of this section shall only apply to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), in compliance with the requirements of G.S. 143-215.104AA, or G.S. 130A-310.73A, as applicable."

PART V. CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

SECTION 5. G.S. 143-215.1C reads as rewritten:

"§ 143-215.1C. Report to wastewater system customers on system performance; report discharge of untreated wastewater to the Department; publication of notice of discharge of untreated wastewater and waste.

(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater ~~and for which a permit is issued under this Part~~ and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year.

(a1) Report Discharge of Untreated Wastewater to the Department. – The owner or operator of any wastewater collection or treatment works ~~for which a permit is issued under this Part~~ shall report a discharge of 1,000 gallons or more of untreated wastewater ~~to the surface to land, or a spill of any amount that reaches waters of the State~~ to the Department as soon as practicable, but no later than 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State. first knowledge of the spill. This reporting requirement shall be in addition to any other reporting requirements applicable to the owner or operator of the wastewater collection or treatment works.

(b) Publication of Notice of Discharge of Untreated Wastewater. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater ~~and for which a permit is issued under this Part~~ shall:

...

(c) Publication of Notice of Discharge of Untreated Waste. – The owner or operator of any wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater, for which a permit is issued under this Part wastewater shall:

- (1) In the event of a discharge of 1,000 gallons or more of untreated waste to the ~~surface to land~~, or a spill of any amount that reaches waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 24 hours after the owner or operator has ~~determined that the discharge has reached the surface waters of the State~~, first knowledge of the spill. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

...."

PART VI. MISCELLANEOUS CHANGES TO WATER QUALITY PROVISIONS

SECTION 6. G.S. 143-215.1 reads as rewritten:

"§ 143-215.1. Control of sources of water pollution; permits required.

...

(a7) ~~For high rate infiltration wastewater disposal systems that utilize non-native soils or materials in a basin sidewall to enhance infiltration, the non-native soils or materials in the sidewall shall not be considered part of the disposal area provided that all of the following standards are met:~~

- (1) ~~In addition to the requirements established by the Commission pursuant to subsection (a4) of G.S. 143-215.1, the treatment system shall include a mechanism to provide filtration of effluent to 0.5 microns or less and all essential treatment units shall be provided in duplicate.~~
- (2) ~~Particle size analysis in accordance with ASTM guidelines for all native and non-native materials shall be performed. Seventy five percent (75%) of all non-native soil materials specified shall have a particle size of less than 4.8 millimeters.~~
- (3) ~~Non-native materials shall comprise no more than fifty percent (50%) of the basin sidewall area.~~
- (4) ~~Systems meeting the standards set out in subdivisions (1), (2), and (3) of this subsection shall be considered nondischarge systems, and the outfall of any associated groundwater lowering device shall be considered groundwater provided the outfall does not violate water quality standards.~~

...

(i) Any person subject to the requirements of this section who is required to obtain an individual permit from the Commission for a disposal system under the authority of G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as may be established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded. Multiple contiguous properties under common ownership and permitted for use as a disposal system shall be treated as a single property with regard to determination of a compliance ~~boundary~~ boundary and setbacks to property lines.

...."

PART VII. CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 7.(a) G.S. 143-355(m) is repealed.

SECTION 7.(b) If Senate Bill 131, 2017 Regular Session, becomes law, then G.S. 143-355(p), as enacted by Section 4.16(c) of that act, reads as rewritten:

"(p) Report. – The Department of Environmental Quality shall report to the Environmental Review Commission on the implementation of this section, including ~~the development of the State water supply plan and~~ the development of basinwide hydrologic models, no later than November 1 of each year. The Department shall submit the report required by this subsection with the report on basinwide water ~~quality~~ management plans required by G.S. 143-215.8B(d) as a single report."

PART VIII. COASTAL AREA MANAGEMENT ACT MODIFICATIONS

SECTION 8.(a) G.S. 113A-124(c) is amended by adding a new subdivision to read:

"(c) The Commission shall have the following additional powers and duties under this Article:

- (1) To recommend to the Secretary the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.
- (2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.
- (3) To hold such public hearings as the Commission deems appropriate.
- (4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.
- (5) Repealed by Session Laws 1987, c. 827, s. 141.
- (6) To delegate the power to determine whether a contested case hearing is appropriate in accordance with G.S. 113A-121.1(b).
- (7) To delegate the power to grant or deny requests for declaratory rulings under G.S. 150B-4 in accordance with standards adopted by the Commission.
- (8) To adopt rules to implement this Article.
- (9) To delegate the power to approve land-use plan for a county in accordance with G.S. 113A-110(f) to any qualified employee of the Department."

SECTION 8.(b) G.S. 113A-119 reads as rewritten:

"§ 113A-119. Permit applications generally.

(a) Any person required to obtain a permit under this Part shall file with the Secretary and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application a check or money order payable to the Department or the city or county, as the case may be, constituting a fee set by the Commission pursuant to G.S. 113A-119.1.

(b) Upon receipt of any application, a significant modification to an application for a major permit, or an application to modify substantially a previously issued major permit, the Secretary shall issue public notice of the proposed development (i) by mailing a copy of the application or modification, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested

State agency; (ii) with the exception of minor permit applications, by posting or causing to be posted a notice at the location of the proposed development stating that an application, a modification of an application for a major permit, or an application to modify a previously issued major permit for development has been made, where the application or modification may be inspected, and the time period for comments; and (iii) with the exception of minor permit applications, by publishing notice of the application or modification at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least 20 days before final action on a major permit or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after mailing of the mailed notice, whichever is later.

(c) Within the meaning of this Part, the "designated local official" is the official who has been designated by the local governing body to receive and consider permit applications under this Part."

PART IX. MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

SECTION 9.(a) G.S. 113-300.6 reads as rewritten:

"§ 113-300.6. Governor to execute compact; form of compact.

The Governor shall execute an Interstate Wildlife Violator Compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

...

Article II.

Definitions.

Unless the context requires otherwise, the definitions in this Article apply through this compact and are intended only for the implementation of this compact:

...

- (15) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. "Wildlife" includes all species of animals that are protected or regulated by the Wildlife Resources Commission, ~~the Marine Fisheries Commission, or the Division of Marine Fisheries in the Department of Environmental Quality.~~ "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Commission. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

...."

SECTION 9.(b) G.S. 113-300.7 reads as rewritten:

"§ 113-300.7. Appointment of Compact Administrator; implementation; rules; amendments.

(a) The Chair of the Wildlife Resources Commission, ~~in consultation with the Chair of the Marine Fisheries Commission and the Fisheries Director,~~ Commission shall appoint the Compact Administrator for North Carolina. The Compact Administrator shall serve at the pleasure of the Chair of the Wildlife Resources Commission.

(b) The Wildlife Resources ~~Commission,~~ Commission and the Secretary of Environmental Quality, ~~and the Division of Marine Fisheries Quality~~ may suspend or revoke

1 the license, privilege, or right of any person to hunt, fish, trap, possess, or transport wildlife in
2 this State to the extent that the license, privilege, or right has been suspended or revoked by
3 another compact member under the provisions of this Article.

4 (c) The Wildlife Resources Commission ~~and the Marine Fisheries Commission~~ shall
5 adopt rules necessary to carry out the purposes of this Article.

6 (d) Any proposed amendment to the Compact shall be submitted to the General
7 Assembly as an amendment to G.S. 113-300.6. In order to be endorsed by the State of North
8 Carolina as provided by subsection (b) of Article IX of the Compact, a proposed amendment to
9 the Compact must be enacted into law."

10
11 **PART X. USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL**
12 **ACCOUNT**

13 **SECTION 10.** G.S. 143-215.3A reads as rewritten:

14 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title**
15 **V Account; I & M Air Pollution Control Account; reports.**

16 ...

17 (b1) The I & M Air Pollution Control Account is established as a nonreverting account
18 within the Department. Fees transferred to the Division of Air Quality of the Department
19 pursuant to G.S. 20-183.7(c) shall be credited to the I & M Air Pollution Control Account and
20 shall be applied to the costs of developing and implementing an air pollution control ~~program~~
21 for mobile sources program.

22 ..."

23
24 **PART XI. EFFECTIVE DATE**

25 **SECTION 11.** This act is effective when it becomes law.





HOUSE BILL 576: Allow Aerosolization of Leachate.

This Bill Analysis
reflects the
contents of the bill
as it was presented
in committee.

2017-2018 General Assembly

Committee: House Environment
Introduced by: Rep. Dixon
Analysis of: PCS to Second Edition
H576-CSRI-13

Date: April 24, 2017
Prepared by: Jennifer McGinnis
Committee Counsel

OVERVIEW: *House Bill 576 would: (i) require the Department of Environmental Quality (DEQ) to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill; and (iii) provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.*

The PCS makes the following changes to the 2nd Edition of the bill:

- Requires DEQ to approve aerosolization *for lined landfills only, with the process used within the lined landfill area only, except that aerosolization would not be allowed at municipal solid waste landfills permitted to receive waste from a swine lagoon for disposal* (in addition to the exception under the previous version of the bill that excepted landfills permitted to receive coal ash).
- It adds language to make it *permissive* for DEQ to approve aerosolization for *unlined landfills*.
- Newly requires an applicant to provide DEQ with data that characterizes contaminants of concern around the landfill emanating from aerosolization.
- Modifies the language that in the earlier versions provided that aerosolization of leachate that results in a zero-liquid discharge does not require an air or water quality permit (but would have still required a solid waste permit) to *add language requiring that the process must not be "a significant air contamination source" to obviate the need for an air or water quality permit.*

CURRENT LAW/ BACKGROUND: In February 2016, a working group of the Environmental Review Commission met to discuss a variety of issues related to waste management. During that process, the working group received information on aerosolization as a process for disposal of leachate at landfills, and a briefing on aerosolization projects operating within the State. According to information received by the working group¹, aerosolization of wastewater is a process by which larger particles (50-

¹ See additional information at
[http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group \(S.L. 2015-241, Sec. 14.21\(a\)\(b\)\)\1 - February 10, 2016](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\2015-2016 ERC Documents\Waste Working Group (S.L. 2015-241, Sec. 14.21(a)(b))\1 - February 10, 2016)

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 576

Page 2

2,000 microns) are formed into droplets and then dispersed over a relatively small area (100' x 300'). Such projects require a permit from the Department's Division of Waste Management.

BILL ANALYSIS: The bill would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to: (i) require that DEQ approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; and (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill. Aerosolization would not be allowed, however, for landfills permitted to receive coal ash or swine waste. Applicants for permits for aerosolization would be required to provide DEQ with data that characterizes contaminants of concern around the landfill emanating from aerosolization. The PCS would also provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.

DEQ must gather information on approved aerosolization projects and report its findings, including any recommendations for legislative action, to the Environmental Review Commission by March 31, 2018.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

3

HOUSE BILL 576
Committee Substitute Favorable 4/20/17
Committee Substitute #2 Favorable 4/24/17

Short Title: Allow Aerosolization of Leachate.

(Public)

Sponsors:

Referred to:

April 6, 2017

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO APPROVE AEROSOLIZATION OF LEACHATE AND WASTEWATER FROM A LINED SANITARY LANDFILL FOR THE DISPOSAL OF MUNICIPAL SOLID WASTE LANDFILL, IN CERTAIN CIRCUMSTANCES; (2) ALLOW THE DEPARTMENT TO APPROVE AEROSOLIZATION OF LEACHATE FROM UNLINED LANDFILLS; AND (3) PROVIDE THAT AEROSOLIZATION OF LEACHATE OR WASTEWATER THAT RESULTS IN A ZERO-LIQUID DISCHARGE AND IS NOT A SIGNIFICANT AIR CONTAMINATION SOURCE DOES NOT CONSTITUTE A SOURCE THAT REQUIRES CERTAIN PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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 management and/or disposal of leachate and non-domestic wastewater collected from a lined sanitary landfill for the disposal of municipal solid waste, except those permitted for the disposal of coal combustion residuals and wastewater from a swine lagoon, the Department shall approve aerosolization of leachate and wastewater as an acceptable method of site management within the landfill lined area only. The Department may consider aerosolization of leachate as an acceptable method of site management for unlined landfills. An applicant shall provide the Department with data that characterizes contaminants of concern around the landfill emanating from aerosolization. Aerosolization of leachate that results in a zero-liquid discharge and is not a significant air contamination source does not constitute a source that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes.

...."

SECTION 1.(b) The Department of Environmental Quality shall gather information on aerosolization projects approved pursuant to Section 1(a) of this act and report its findings, including any recommendations for legislative action, to the Environmental Review Commission on or before March 31, 2018.

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



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/25/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Amy McConkey	NC Bev Ass'n
Maggie Meyers	Sierra Club
Mike Abraczynski	NC DEQ
TRACY DRUS	NCDER-DEMLK
DAN CRAWFORD	NCLCV
Graham Jackson	NCLCV
Sarah Collins	NCLM
Hugh Johnson	
Johanna Reese	NCA CC
Rwan Mcwald	w m
Andy Miller	DE-6
Brato Rainey Pearson	SAC
My Muck Abil	SELC
Tim Murtel	NCA GA
Jennifer Murtel	NCDER
Erin Wynia	NCLM
Jaz Turner	Duke Energy



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/25/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Morgan Dunn	Walk West
Peter Daniel	Connect C
John Cooper	connect C
Luke Stancil	JSC
Chris Saunders	NCSA & CS
Craig Clarke	NC Forest Service
Tom BEAN	ED F, NCWF
Cassie Garcia	Sierra Club
Michael Scott	DEQ
Ed Mussler	DEQ
Ellen Lorscheider	DEQ
Jamie Cole	NCCN
Katie Gammon	Governor's office
Kathy King	OP
EBall	MPC
John Han	MWC
Deonney Williams	Senator



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/25/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

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VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/25/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Gwen	Duke E
PRESTON HOWARD	NCAHA
Doug Lassiter	NCSA
Henry Jones	Jordan Price
JAKE PARKER	NCFB
Angie Mauer	NC Pork
Brandon Hartman	NCPA
W. Gardner Culpeper	PPAD
Will Culpeper	MVP
Tommy Stevens	NC Pork / Smith
Nancy Thompson	Weyerhaeuser
LC Peryn	CBS
Dexter Matthews	NC SWANA
Paul Sherma	NCFB
Daniel Radford	NCFB
Phil Carter	WASTE INDUSTRIES
SM Tracy	AMKS



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

5/25/2017

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
<i>Demetrius</i>	<i>WV</i>
David M'Gowan	NRPC
Tommy Sene	mwc
<i>Car. P. Ryan</i>	<i>WV</i>
DAVID SNEED	CCANC
Gregan Whitaker	Senate Intern
Chris Wall	PC
Doni Houny	NCRIM
<i>Steve W...</i>	<i>WV</i>
Cameron Harty	MVA
<i>John P...</i>	NCRAD
Shari Ann Harris	LAHA
Kortney Smith	NCRB
Dave Home	SA
Zen Altman	NCRPA



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 31, 2017, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 56	Amend Environmental Laws.	Representative McElraft
HB 576	Allow Aerosolization of Leachate.	Representative Yarborough Representative Dixon

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, May 31, 2017

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

FAVORABLE

HB 576 (CS#2)

Allow Aerosolization of Leachate.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 1 of 2

Senator Andy Wells will handle HB 576



* C M R 4 5 9 - V - 1 *

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, May 31, 2017

Senator Cook,
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 56 (CS#1)

Amend Environmental Laws.

Draft Number:	H56-PCS10361-SBf-23
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 2 of 2

Senator Norman W. Sanderson will handle HB 56



* C M R 4 6 7 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 31, 2017 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00 AM on May 31, 2017 in Room 1027/1128 of the Legislative Building - 17 members were present.

Senator Bill Cook, Chair, presided.

Cook: Welcome. (Introduces Sergeants at Arms and Pages)

House Bill 576 - Allow Aerosolization of Leachate. (Representative Dixon)

Representative Dixon: This bill has been a collaborative effort of five different divisions. I request your positive vote and am ready for questions.

Wade: Was this not included in the regulatory reform act last year?

Dixon: This is an improvement based on conversations after that was passed.

McGinnis: Does this only apply to fluids coming from a landfill?

Dixon: This is for leachate from a landfill, so yes.

Ruth Rainey Pearson (Southern Environmental Law Center): This bill is garbage juice in a snowblower. This technology may be safe, but we cannot confirm this. We do not know many things that we need to know about this study. The particles can travel very far, with bacteria and viruses in the leachate. DEQ has permitted this technology.

Dixon: That is false information.

Wade: makes a motion for a favorable adoption of the bill.

Vote: Passes

HB 56 Amend Environmental Laws. (Representatives McElraft, Yarborough)

Yarborough: There were multiple changes made to this bill since last time it was before us.

Rabin: Is DEQ on board with these changes?

Yarborough: Yes.

Bryant: I'd like to hear from DEQ.



Amendments:

Wells: The amendment being handed out clarifies and improves several pieces of language in the bill concerning waste water discharge and spills.

Bryant: What are the substantive changes?

Staff: I would qualify the changes for waste discharges as substantive.

DEQ: We still have a few concerns on these new provisions in the bill. We are still gathering more information to determine this amendment's impact.

Brock: moves to adopt the amendment.

Vote: Passes

Second Amendment:

Britt: This amendment addresses an ordinance passed by Topsail Beach authorizing dunes to be taken away from in order to make room for new property. Basically, if you tear down these dunes then you will not receive State Funds to make repairs.

Jackson: Is this for the North or South end of Topsail?

Britt: Both.

Brock: moves to adopt the amendment.

Vote: Passes

Third Amendment:

Sanderson: This amendment reduces the membership of the Marine Fisheries Commission from 9 to 7 and requires a supermajority of 5 to make decisions. The two at-large seats would be abolished. The goal of this is to remove politics from the commission.

Bryant: I am frustrated that we have these substantial amendments that we have to react to in seconds. What exactly is the goal of this?

Cook: The commission has gotten out of control and is making decisions based on politics, not science. This amendment encourages them to do a better job.

Bryant: Who appoints them?

Staff: The governor still appoints them.



Jackson: This would have been the third time you would of seen this language as it was in our budget last year.

Waddell: What provisions will be made for appropriate representation of women and minorities on the commission?

Staff: That is currently in law and the governor's office implements that.

Jackson: moves to adopt the amendment.

Vote: Pass

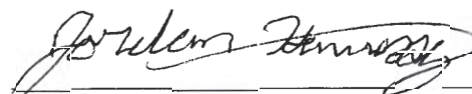
Rabin: makes a motion for a favorable adoption of the PCS as amended.

Vote: Passes

The meeting adjourned at 9:44 a.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk





HOUSE BILL 576: Allow Aerosolization of Leachate.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 25, 2017
Introduced by:	Rep. Dixon	Prepared by:	Jennifer McGinnis
Analysis of:	Third Edition		Committee Counsel

OVERVIEW: *House Bill 576 would: (i) require the Department of Environmental Quality (DEQ) to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill; and (iii) provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.*

CURRENT LAW/ BACKGROUND: In February 2016, a working group of the Environmental Review Commission met to discuss a variety of issues related to waste management. During that process, the working group received information on aerosolization as a process for disposal of leachate at landfills, and a briefing on aerosolization projects operating within the State. According to information received by the working group¹, aerosolization of wastewater is a process by which larger particles (50-2,000 microns) are formed into droplets and then dispersed over a relatively small area (100' x 300'). Such projects require a permit from the Department's Division of Waste Management.

BILL ANALYSIS: The bill would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to: (i) require that DEQ approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a lined sanitary landfill within the lined area of the landfill; and (ii) allow DEQ to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from an unlined sanitary landfill. Aerosolization would not be allowed, however, for landfills permitted to receive coal ash or swine waste. Applicants for permits for aerosolization would be required to provide DEQ with data that characterizes contaminants of concern around the landfill emanating from aerosolization. The bill would also provide that aerosolization of leachate or wastewater that results in a zero liquid discharge and is

¹ See additional information at [http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\\2015-2016 ERC Documents\\Waste Working Group \(S.L. 2015-241, Sec. 14.21\(a\)\(b\)\)\\1 - February 10, 2016](http://www.ncleg.net/gascripts/DocumentSites/browseDocSite.asp?nID=12&sFolderName=\\2015-2016 ERC Documents\\Waste Working Group (S.L. 2015-241, Sec. 14.21(a)(b))\\1 - February 10, 2016)

Karen Cochrane-Brown
Director



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919-733-2578

House Bill 576

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not a significant air contamination source does not constitute a discharge that requires a permit under the air or water permitting statutes.

DEQ must gather information on approved aerosolization projects and report its findings, including any recommendations for legislative action, to the Environmental Review Commission by March 31, 2018.

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

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

3

HOUSE BILL 576
Committee Substitute Favorable 4/20/17
Committee Substitute #2 Favorable 4/24/17

Short Title: Allow Aerosolization of Leachate.

(Public)

Sponsors:

Referred to:

April 6, 2017

A BILL TO BE ENTITLED

AN ACT TO (1) REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO APPROVE AEROSOLIZATION OF LEACHATE AND WASTEWATER FROM A LINED SANITARY LANDFILL FOR THE DISPOSAL OF MUNICIPAL SOLID WASTE LANDFILL, IN CERTAIN CIRCUMSTANCES; (2) ALLOW THE DEPARTMENT TO APPROVE AEROSOLIZATION OF LEACHATE FROM UNLINED LANDFILLS; AND (3) PROVIDE THAT AEROSOLIZATION OF LEACHATE OR WASTEWATER THAT RESULTS IN A ZERO-LIQUID DISCHARGE AND IS NOT A SIGNIFICANT AIR CONTAMINATION SOURCE DOES NOT CONSTITUTE A SOURCE THAT REQUIRES CERTAIN PERMITS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) 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 management and/or disposal of leachate and non-domestic wastewater collected from a lined sanitary landfill for the disposal of municipal solid waste, except those permitted for the disposal of coal combustion residuals and wastewater from a swine lagoon, the Department shall approve aerosolization of leachate and wastewater as an acceptable method of site management within the landfill lined area only. The Department may consider aerosolization of leachate as an acceptable method of site management for unlined landfills. An applicant shall provide the Department with data that characterizes contaminants of concern around the landfill emanating from aerosolization. Aerosolization of leachate that results in a zero-liquid discharge and is not a significant air contamination source does not constitute a source that requires a permit under either Article 21 or Article 21B of Chapter 143 of the General Statutes.

...."

SECTION 1.(b) The Department of Environmental Quality shall gather information on aerosolization projects approved pursuant to Section 1(a) of this act and report its findings, including any recommendations for legislative action, to the Environmental Review Commission on or before March 31, 2018.

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





HOUSE BILL 56: Amend Environmental Laws.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 25, 2017
Introduced by:	Reps. McElraft, Yarborough	Prepared by:	Jennifer McGinnis
Analysis of:	PCS to Third Edition H56-CSSBF-23		Jeff Hudson Committee Counsel

OVERVIEW: *House Bill 56 would amend various environmental laws.*

CURRENT LAW, BACKGROUND, AND BILL ANALYSIS:

FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

Current law requires persons conducting risk-based¹ remediation of a contaminated site to establish financial assurance that will ensure that sufficient funds are available to implement and maintain the actions or controls specified in the remedial action plan for the site.

Section 1 would modify financial assurance requirements for persons conducting risk-based remediation by allowing the Department to waive the financial assurance requirement if the Department finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

- Annual reporting of land use controls.
- The maintenance of durable or low-maintenance covers for contaminated soil.

REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

Under current law G.S. 130A-294(k) requires generators of hazardous waste and operators of hazardous waste facilities to submit, in association with payment of required fees, a written description of any program to minimize or reduce the volume and quantity or toxicity of such waste.

Section 2.(a) would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced, and that generators meet the waste minimization criteria through other requirements.

¹ Cleanup using site-specific cleanup standards designed to protect public health, safety, and welfare and the environment based on the current and anticipated future use of a site, which are generally not as stringent as the applicable unrestricted use standards.

Karen Cochrane-Brown
Director



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House PCS 56

Page 2

Under current law G.S. 130A-309.17 requires registration of persons transporting, collecting, or recycling specific amounts of used oil, and imposes reporting requirements. Associated fees for these activities were repealed in 2015, but the registration and reporting requirement was left intact

Section 2.(b) would repeal this requirement upon recommendation of the Department, which reports that the requirement is not enforced.

LAND USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

Current law requires that a remedial action plan for cleanup of environmental damage from a discharge or release of petroleum from an underground storage tank (UST) include an agreement by the person responsible for the discharge or release to record a notice of any applicable land-use restrictions on the on the current or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup².

Section 3.(a) would add discharges or releases of petroleum from aboveground storage tanks (AST) and other sources (discharges or releases not from an UST or AST) to the requirement that a remedial action plan for cleanup of the contamination or release from these sources include an agreement to record a notice of any applicable land-use restrictions. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for land-use restrictions) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

Current law requires that a person responsible for the discharge or release of petroleum from an UST to record a "NOTICE OF RESIDUAL PETROLEUM" if residual petroleum is left on a property after a risk-based cleanup has occurred and record a notice of any applicable land-use restrictions on the current or future use of the contaminated real property when soil or groundwater contamination will remain in excess of unrestricted use standards after a risk-based cleanup. This notice must be filed in the register of deeds office in the county or counties in which the real property is located (i) before the property is conveyed or (ii) within 30 days after the owner, operator, or other person responsible for the discharge or release receives notice from the Department that no further action is required under the remedial action plan, whichever first occurs.

Section 3.(b) would add discharges or releases of petroleum from ASTs and other sources (discharges or releases not from an UST or AST) to the requirement for recordation of such a notice. Provided, however, that sites at which contamination has migrated to off-site properties must be cleaned up to unrestricted use standards (thus eliminating the need for recording a notice of residual petroleum) unless the person responsible for the release or discharge of petroleum has obtained the informed consent of the owner of the off-site property to conduct a risk-based remediation.

² Generally, cleanup of environmental contamination must be performed to meet unrestricted use standards, meaning contaminant concentrations present at a location are acceptable for all uses; are protective of public health, safety, and welfare and the environment; and comply with an applicable program's standards established by statute or rule adopted by the Environmental Management Commission, the Commission for Public Health, or the Department of Environmental Quality (DEQ). Risk-based cleanup, however, allows cleanup based on site-specific risk factors, which are generally not as stringent as the applicable unrestricted use standards.

CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

Current law obligates the owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater, and for which a permit is required, to do all of the following: (i) for those systems having an average annual flow of greater than 200,000 gallons per day, provide an annual report to the system's customers on the system's performance; (ii) report discharges of 1,000 gallons or more of untreated wastewater to the surface waters of the State to the Department as soon as practicable, but no later than 24 hours after the owner or operator has determined that the discharge has reached the surface waters of the State, and issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge; (iii) in the event of a discharge of 15,000 gallons or more of untreated wastewater to the surface waters of the State, publish a notice of the discharge in a newspaper having general circulation in the county in which the discharge occurs and in each county downstream from the point of discharge that is significantly affected by the discharge. Similar requirements apply to owners and operators of wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater.

Section 4 would:

- Eliminate the limiting language that only applies these requirements to systems for which a permit is required.
- Modify the reporting trigger, to require that an owner or operator must report discharges of 1,000 gallons or more of untreated wastewater to land, or a spill of any amount that reaches waters of the State, within 24 hours after the owner or operator has first knowledge of the spill.

CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Current law requires the Department to develop a State water supply plan, with the stated purpose of assuring "the availability of adequate supplies of good quality water to protect the public health and to support desirable economic growth..."

Section 5.(a) would repeal this provision at the request of the Department, to reflect an approach of combined water quality and quantity planning into a consolidated plan for water resources.

Current law requires the Department to report to the Environmental Review Commission (ERC) on the implementation of the Department's powers and duties as it relates to its management of water resources, including information on the development of the State water supply plan and the development of basinwide hydrologic models.

Section 5.(b) would repeal the reference to the State water supply plan, at the request of the Department, to reflect an approach of combined water quality and quantity into a consolidated plan for water resources.

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COASTAL AREA MANAGEMENT ACT MODIFICATIONS

Under current law, the Coastal Area Management Act (CAMA) requires each coastal-area county³ to prepare a land-use plan⁴, which must be approved by the Coastal Resources Commission (CRC).

Section 6.(a) would allow the CRC to delegate approval of county land-use plans to any qualified employee of the Department.

Under current law, CAMA requires the Secretary of Environmental Quality to issue public notice of a development permit application, upon receipt of the application. Notice must be made by:

- Mail to persons who have requested notice and interested State agencies.
- Posting a notice at the location of the proposed development.
- And, with the exception of a permit application for minor development⁵, by publishing notice of the application at least once in one newspaper of general circulation in the county or counties where the development would be located.

Section 6.(b) would except minor permit applications from the requirement for notice by posting at the location of the proposed development.

MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

Under current law, Article II of Chapter 113 of the General Statutes governs the State's participation in the Interstate Wildlife Violator Compact. The Article defines wildlife, in part, to mean:

"... all species of animals that are protected or regulated by the Wildlife Resources Commission, the Marine Fisheries Commission, or the Division of Marine Fisheries in the Department of Environmental Quality. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state..."

The governing statutes otherwise assign the Marine Fisheries Commission (MFC) and the Division of Marine Fisheries (DMF) with various powers and duties related to the Compact.

Sections 7.(a) and 7.(b) would delete all references to the MFC and the DMF from the Article.

³ Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

⁴ Under CAMA, land-use plans must consist of statements of objectives, policies, and standards to be followed in public and private use of land within the county, and must give special attention to the protection and appropriate development of areas of environmental concern designated under CAMA.

⁵ A "major development" is any development which requires permission, licensing, approval, certification or authorization in any form from the Environmental Management Commission (EMC), the Department, the Department of Administration, the North Carolina Oil and Gas Commission, the North Carolina Pesticides Board, the North Carolina Sedimentation Control Commission, or any federal agency or authority; or which occupies a land or water area in excess of 20 acres; or which contemplates drilling for or excavating natural resources on land or under water; or which occupies on a single parcel a structure or structures in excess of a ground area of 60,000 square feet. A "minor development" is any development other than a "major development."

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USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL ACCOUNT

Under current law, funds in the I & M Air Pollution Control Account must be applied to the costs of developing and implementing an air pollution control program for mobile sources.

Section 8 would delete the reference to "mobile sources", allowing funds from the account to be applied for development and implementation of air pollution control programs for both mobile and stationary sources.

CLARIFY SETBACK DETERMINATION FOR PERMITTED DISPOSAL SYSTEMS

Section 9 would amend a provision that currently (i) requires disposal systems permitted under the water quality or solid waste statutes to have a compliance boundary beyond which groundwater quality standards may not be exceeded and (ii) provides that multiple contiguous properties under common ownership and permitted for use as a disposal system must be treated as a single property with regard to determination of such a boundary. Section 9 would specifically modify the provision governing multiple contiguous properties under common ownership, to provide that they would also be treated as a single property for the purposes of establishing setbacks to property lines.

REPEAL PLASTIC BAG BAN

Under current law, retailers in certain areas of the State are prohibited from providing customers with plastic bags unless the bag (1) is reusable, or (2) is used solely to hold sales of otherwise unpacked portions of fresh fish or fish products, meat or meat products, poultry or poultry products, or produce. Substitution of paper bags is permitted if the bag is a recycled paper bag and the retailer offers one of the following incentives to any customer who uses the customer's own reusable bags instead of the bags provided by the retailer: (1) a cash refund; (2) a store coupon or credit for general store use; or (3) a value or reward under the retailer's customer loyalty or rewards program for general store use.

The prohibition only applies to islands or peninsulas bounded on the east by the Atlantic Ocean and on the west by a coastal sound, which are within counties that have a barrier island or barrier peninsula that both: (1) has permanent inhabitation of 200 or more residents and is separated from the mainland by a sound; and (2) contains either a National Wildlife Refuge or a portion of a National Seashore (Dare, Currituck, and Hyde Counties).

Section 10 would repeal the prohibition providing customers with plastic bags. The repeal would become effective July 1, 2017.

AMEND THE RULE FOR POOL LIGHTING

Current law establishes certain lighting requirements for pools, including:

- Artificial lighting must be provided at all pools that are to be used at night, or when natural lighting is insufficient to provide visibility in the pool area.
- Lighting fixtures must be of such number and design as to illuminate all parts of the pool, the water, the depth markers, signs, entrances, restrooms, safety equipment and the required deck area and walkways.

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- Fixtures must be installed so as not to create hazards such as burning, electrical shock, mechanical injury, or temporary blinding by glare to the bathers, and so that lifeguards, when provided, can see every part of the pool area without being blinded by glare. The illumination must be sufficient so that the floor of the pool can be seen at all times the pool is in use.
- If underwater lighting is used, it must provide at least 0.5 watts or 8.35 lumens per square foot of water surface and deck lighting must provide not less than 10 foot candles of light measured at 6 inches above the deck surface.
- Where underwater lighting is not used, and night swimming is permitted, area and pool lighting combined must provide not less than 10 foot candles of light to all parts of the pool and required deck area.

Section 11 would direct the Commission for Public Health to amend the rule governing pool lighting to require pool illumination sufficient to illuminate the main drains of a pool, and the deck area of a pool so that it is visible at all times the pool is in use. The Commission, however, would be prohibited from requiring specific foot candles of illumination for the deck area.

COASTAL STORMWATER PROGRAM VARIANCE

Under current law, certain development in 20 coastal counties is subject to stormwater regulation to protect surface waters from the impact of stormwater runoff. These regulations control aspects of development such as the maximum amount of allowable built-upon area and the types of stormwater best management practices that must be applied to the development. Development in the following counties is subject to these regulations: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare Gates, Hertford., Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington.

Section 12 would provide that a subdivision is deemed to be fulfilling its coastal stormwater permitting requirements if the subdivision meets all of the following requirements:

- The subdivision's original declaration of covenants was recorded at least 20 years prior to the effective date of this act.
- The original developer of the subdivision is financially insolvent.
- The original developer of the subdivision transferred the stormwater permit to the homeowners association for the subdivision and, at the time of the transfer, the homeowners association had no notice from the original developer or any regulatory agency that the subdivision was not in compliance with the impervious surface limitations.

This provision would only apply to impervious surface built prior to January 1, 2017. Any impervious surface built on or after January 1, 2017, would be subject to the State's coastal stormwater laws.

AMEND THE RULE FOR PROTECTION OF EXISTING BUFFERS IN THE JORDAN LAKE WATERSHED TO EXEMPT CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC SAFETY

Current law requires certain measures for protection of existing riparian buffers in the Jordan Lake Watershed in order to maintain the buffers nutrient removal and stream protection functions, and to help protect the water supply uses of Jordan Reservoir and designated water supplies throughout the watershed. The requirements of the applicable rule apply to all landowners and other persons conducting

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activities in the Jordan watershed, including State and federal entities, and to all local governments in the watershed. Generally, vegetated areas in buffer areas must remain undisturbed with limited exceptions.

Section 13 would direct the EMC to modify the applicable rule governing protection of existing riparian buffers in the Jordan Lake Watershed to exempt from the requirements of the rule buffers that are located in any publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the buffers pose a risk to public safety.

AMEND THE RULE FOR PROTECTION AND MAINTENANCE OF EXISTING BUFFERS IN THE CATAWBA RIVER BASIN TO EXEMPT CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC WALKING TRAILS

Current law requires certain measures for protection of existing riparian buffers along the Catawba River in the mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin in order to maintain their pollutant removal functions as an aid in protecting the water quality of the lakes and connecting river segments.

Section 14 would direct the EMC to modify the applicable rule governing protection of existing riparian buffers along the Catawba River in the mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin to exempt from the requirements of the rule any publicly owned property that will be used for walking trails.

RIPARIAN BUFFER TAX EXCLUSION

Section 15 would designate portions of real property that is subject to any of the following riparian buffer rules and that is being used as a riparian buffer as a special class of property under Article V, Sec. 2(2), of the North Carolina Constitution and exclude the property from the tax base:

- Neuse River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B .0233).
- Tar-Pamlico River Basin: Nutrient Sensitive Waters Management Strategy: Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B. 0259).
- Randleman Lake Water Supply Watershed: Protection and Maintenance of Existing Riparian Buffers (15A NCAC 02B .0250).
- Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers (15A NCAC 02B .0267).
- Goose Creek Watershed Water Quality Management Plan (15A NCAC 02B .0605, 15A NCAC 02B .0606, 15A NCAC 02B .0607, 15A NCAC 02B .0608).
- Mitigation Program Requirements for Protection and Maintenance of Riparian Buffers (15A NCAC 02B .0295).

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WATER QUALITY TESTING

Section 16 would require DEQ's Division of Water Resources to conduct a water quality sampling program for nutrients along the mainstem of the Catawba River, and require sampling for nutrients above, in, and below each major tributary of the Catawba River. The Division would be required to report the results of the study to the Environmental Review Commission no later than October 1, 2018.

MINING PERMITTING REVISIONS

Current law provides that an operating permit for a mining operation may be granted for a period not to exceed 10 years. Each applicant for an operating permit must, among other things: (i) pay a fee associated with applications for a new permit, permit modifications, or permit transfers; and (ii) following the approval of the application, file and maintain in force a bond in favor of the State, in an amount based upon the area of affected land to be reclaimed under the reclamation plan approved for the mining operation in question. The amount of the bond associated with a particular permit is set by DEQ based upon a schedule established by the Mining Commission.

Section 17 would:

- Except with respect to mining operations occurring on property leased from a public entity, require DEQ to issue permits for a mining operation for the operation's "life-of-site," which is defined under the PCS to mean the period from the initial receipt of a permit from the operation until the mining operation terminates and the reclamation required under the approved reclamation plan is completed. For mining operations conducted on real property that is leased from a public entity, DEQ would be required to issue a permit for the operation's "life-of-lease," which is defined under the PCS to mean the duration of the lease between the owner or operator of the mining operation and a public entity. The term "public entity" would include the State, any State agency, State college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State.
- Limit the amount of the bond an applicant must file and maintain in force to an amount not exceed \$1,000,000.
- Add an annual operating fee of \$400.00 per permit for a mining operation.

AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS ORIGINATING OUTSIDE OF NORTH CAROLINA

Under current law, private condemnors are given the power of eminent domain, for the public use or benefit, for certain purposes, including: 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, electric power lines, electric lights, public water supplies, public sewerage systems, flumes, bridges, and pipelines or mains originating in North Carolina for the transportation of petroleum products, coal, gas, limestone or minerals. The statute goes on to provide that land condemned for any liquid pipelines shall:

- Not be less than 50 feet nor more than 100 feet in width; and
- Comply with provisions in Chapter 62 (Public Utilities) that govern the right of eminent domain conferred upon pipeline companies.

Section 18 would, with respect to private condemnors power of eminent domain over pipelines and mains, delete the limitation that such pipelines or mains "originat[e] in North Carolina."

EFFECTIVE DATE: Except as otherwise provided, the PCS would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

HOUSE BILL 56
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/24/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H56-CSSBf-23 [v.6]
05/24/2017 3:01:47 PM

Short Title: Amend Environmental Laws.

(Public)

Sponsors:

Referred to:

February 8, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
The General Assembly of North Carolina enacts:

FINANCIAL ASSURANCE MODIFICATIONS FOR RISK-BASED CLEANUPS

SECTION 1. G.S. 130A-310.72 reads as rewritten:

"§ 130A-310.72. Financial assurance requirement.

The person conducting remediation of a contaminated ~~industrial~~ site pursuant to the provisions of this Part shall establish financial assurance that will ensure that sufficient funds are available to implement and maintain the actions or controls specified in the remedial action plan for the site. The person conducting remediation of a site may establish financial assurance through one of the following mechanisms, or any combination of the following mechanisms, in a form specified or approved by the Department: insurance products issued from entities having no corporate or ownership association with the person conducting the remediation; funded trusts; surety bonds; certificates of deposit; letters of credit; corporate financial tests; local government financial tests; corporate guarantees; local government guarantees; capital reserve funds; or any other financial mechanism authorized for the demonstration of financial assurance under (i) 40 Code of Federal Regulations Part 264, Subpart H (July 1, 2010 Edition) and (ii) Section .1600 of Subchapter B of Chapter 13 of Title 15A of the North Carolina Administrative Code. Proof of financial assurance shall be provided in the remedial action plan and annually thereafter on the anniversary date of the approval of the plan. The Department may waive the requirement for a person conducting remediation of a contaminated site pursuant to the provisions of this Part to establish or maintain financial assurance if the Department finds that the only actions or controls to be implemented or maintained as part of the remedial action plan for the site include either or both of the following:

(1) Annual reporting of land-use controls.

(2) The maintenance of durable or low-maintenance covers for contaminated soil."

REPEAL OBSOLETE HAZARDOUS WASTE PROVISIONS

SECTION 2.(a) G.S. 130A-294(k) is repealed.

SECTION 2.(b) G.S. 130A-309.17 is repealed.



LAND-USE RESTRICTIONS FOR PROPERTY CONTAMINATED BY A NON-UST PETROLEUM DISCHARGE OR RELEASE

SECTION 3.(a) G.S. 143B-279.9(b) reads as rewritten:

"(b) The definitions set out in G.S. 143-215.94A apply to this subsection. A remedial action plan for the cleanup of environmental damage resulting from a discharge or release of petroleum from an underground storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes, other petroleum sources, or from an aboveground storage tank pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes must include an agreement by the owner, operator, or other party responsible for the discharge or release of petroleum to record a notice of any applicable land-use restrictions that meet the requirements of this subsection as provided in G.S. 143B-279.11. All of the provisions of this section shall apply except as specifically modified by this subsection and G.S. 143B-279.11. Any restriction on the current or future use of real property pursuant to this subsection shall be enforceable only with respect to: (i) real property on which the source of contamination is located and (ii) any real property on which contamination is located at the time the remedial action plan is approved and that was owned or controlled by any owner or operator of the underground storage tank or other responsible party at the time the discharge or release of petroleum is discovered or reported or at any time thereafter. No restriction on the current or future use of real property shall apply to any portion of any parcel or tract of land on which contamination is not located. This subsection shall not be construed to require any person to record any notice of restriction on the current or future use of real property other than the real property described in this subsection. For purposes of this subsection and G.S. 143B-279.11, the Secretary may restrict current or future use of real property only as set out in any one or more of the following subdivisions:

- (1) Where soil contamination will remain in excess of unrestricted use standards, the property may be used for a primary or secondary residence, school, daycare center, nursing home, playground, park, recreation area, or other similar use only with the approval of the Department.
- (2) Where soil contamination will remain in excess of unrestricted use standards and the property is used for a primary or secondary residence that was constructed before the release of petroleum that resulted in the contamination is discovered or reported, the Secretary may approve alternative restrictions that are sufficient to reduce the risk of exposure to contaminated soils to an acceptable level while allowing the real property to continue to be used for a residence.
- (3) Where groundwater contamination will remain in excess of unrestricted use standards, installation or operation of any well usable as a source of water shall be prohibited.
- (4) Any restriction on the current or future use of the real property that is agreed upon by both the owner of the real property and the Department.

Except with respect to land contaminated from a discharge or release of petroleum from an underground storage tank, the imposition of restrictions on the current or future use of real property on sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), shall only be allowed as provided in G.S. 143-215.104AA, or G.S. 130A-310.73A, as applicable."

SECTION 3.(b) G.S. 143B-279.11 reads as rewritten:

"§ 143B-279.11. Recordation of residual petroleum from ~~an~~—underground or aboveground storage tank, tanks or other sources.

(a) The definitions set out in G.S. 143-215.94A and G.S. 143B-279.9 apply to this section. This section applies only to a cleanup pursuant to a remedial action plan that addresses

1 environmental damage resulting from a discharge or release of petroleum from an underground
2 storage tank pursuant to Part 2A of Article 21A of Chapter 143 of the General Statutes-Statutes
3 or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article
4 21A of Chapter 143 of the General Statutes.

5 (b) The owner, operator, or other person responsible for a discharge or release of
6 petroleum from an underground storage ~~tank-tank~~, aboveground storage tank, or other
7 petroleum source shall prepare and submit to the Department a proposed Notice that meets the
8 requirements of this section. The proposed Notice shall be submitted to the Department (i)
9 before the property is conveyed, or (ii) when the owner, operator, or other person responsible
10 for the discharge or release requests that the Department issue a determination that no further
11 action is required under the remedial action plan, whichever first occurs. The Notice shall be
12 entitled "NOTICE OF RESIDUAL PETROLEUM". The Notice shall include a description that
13 would be sufficient as a description in an instrument of conveyance of the (i) real property on
14 which the source of contamination is located and (ii) any real property on which contamination
15 is located at the time the remedial action plan is approved and that was owned or controlled by
16 any owner or operator of the underground storage ~~tank-tank~~, aboveground storage tank, or other
17 petroleum source, or other responsible party at the time the discharge or release of petroleum is
18 discovered or reported or at any time thereafter. The Notice shall identify the location of any
19 residual petroleum known to exist on the real property at the time the Notice is prepared. The
20 Notice shall also identify the location of any residual petroleum known, at the time the Notice
21 is prepared, to exist on other real property that is a result of the discharge or release. The Notice
22 shall set out any restrictions on the current or future use of the real property that are imposed by
23 the Secretary pursuant to G.S. 143B-279.9(b) to protect public health, the environment, or users
24 of the property.

25 (c) If the contamination is located on more than one parcel or tract of land, the
26 Department may require that the owner, operator, or other person responsible for the discharge
27 or release prepare a composite map or plat that shows all parcels or tracts. If the contamination
28 is located on one parcel or tract of land, the owner, operator, or other person responsible for the
29 discharge or release may prepare a map or plat that shows the parcel but is not required to do
30 so. A map or plat shall be prepared and certified by a professional land surveyor, shall meet the
31 requirements of G.S. 47-30, and shall be submitted to the Department for approval. When the
32 Department has approved a map or plat, it shall be recorded in the office of the register of
33 deeds and shall be incorporated into the Notice by reference.

34 (d) The Department shall review the proposed Notice to determine whether the Notice
35 meets the requirements of this section and rules adopted to implement this section and shall
36 provide the owner, operator, or other person responsible for the discharge or release of
37 petroleum from an underground storage ~~tank-tank~~, aboveground storage tank, or other
38 petroleum source, with a notarized copy of the approved Notice. After the Department
39 approves the Notice, the owner, operator, or other person responsible for the discharge or
40 release of petroleum from an underground storage ~~tank-tank~~, aboveground storage tank, or
41 other petroleum source shall file a notarized copy of the approved Notice in the register of
42 deeds office in the county or counties in which the real property is located (i) before the
43 property is conveyed or (ii) within 30 days after the owner, operator, or other person
44 responsible for the discharge or release receives notice from the Department that no further
45 action is required under the remedial action plan, whichever first occurs. If the owner, operator,
46 or other person responsible for the discharge or release fails to file the Notice as required by
47 this section, any determination by the Department that no further action is required is void. The
48 owner, operator, or other person responsible for the discharge or release, may record the Notice
49 required by this section without the agreement of the owner of the real property. The owner,
50 operator, or other person responsible for the discharge or release shall submit a certified copy
51 of the Notice as filed in the register of deeds office to the Department.

(e) Repealed by Session Laws 2012-18, s. 1.23, effective July 1, 2012.

(f) In the event that the owner, operator, or other person responsible for the discharge or release fails to submit and file the Notice required by this section within the time specified, the Secretary may prepare and file the Notice. The costs thereof may be recovered by the Secretary from any responsible party. In the event that an owner of the real property who is not a responsible party submits and files the Notice required by this section, the owner may recover the reasonable costs thereof from any responsible party.

(g) A Notice filed pursuant to this section shall, at the request of the owner of the real property, be cancelled by the Secretary after the residual petroleum has been eliminated or remediated to unrestricted use standards. If requested in writing by the owner of the land, the Secretary shall send to the register of deeds of each county where the Notice is recorded a statement that the residual petroleum has been eliminated, or that the residual petroleum has been remediated to unrestricted use standards, and request that the Notice be cancelled of record. The Secretary's statement shall contain the names of the owners of the land as shown in the Notice and reference the plat book and page where the Notice is recorded.

(h) Except with respect to land contaminated from a discharge or release of petroleum from an underground storage tank, the provisions of this section shall only apply to sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A-310.65(3a), in compliance with the requirements of G.S. 143-215.104AA, or G.S. 130A-310.73A, as applicable."

CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

SECTION 4. G.S. 143-215.1C reads as rewritten:

"§ 143-215.1C. Report to wastewater system customers on system performance; report discharge of untreated wastewater to the Department; publication of notice of discharge of untreated wastewater and waste.

(a) Report to Wastewater System Customers. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater ~~and for which a permit is issued under this Part~~ and having an average annual flow greater than 200,000 gallons per day, shall provide to the users or customers of the collection system or treatment works and to the Department an annual report that summarizes the performance of the collection system or treatment works and the extent to which the collection system or treatment works has violated the permit or federal or State laws, regulations, or rules related to the protection of water quality. The report shall be prepared on either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of the calendar or fiscal year.

(a1) Report Discharge of Untreated Wastewater to the Department. – The owner or operator of any wastewater collection or treatment works ~~for which a permit is issued under this Part~~ shall report a discharge of 1,000 gallons or more of untreated wastewater ~~to the surface to land, or a spill of any amount that reaches waters of the State~~ to the State, to the Department as soon as practicable, but no later than 24 hours after the owner or operator has ~~determined that the discharge has reached the surface waters of the State~~ first knowledge of the spill. This reporting requirement shall be in addition to any other reporting requirements applicable to the owner or operator of the wastewater collection or treatment works.

(b) Publication of Notice of Discharge of Untreated Wastewater. – The owner or operator of any wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater ~~and for which a permit is issued under this Part~~ shall:

...

(c) Publication of Notice of Discharge of Untreated Waste. – The owner or operator of any wastewater collection or treatment works, other than a wastewater collection or treatment works the operation of which is primarily to collect or treat municipal or domestic wastewater, for which a permit is issued under this Part wastewater shall:

- (1) In the event of a discharge of 1,000 gallons or more of untreated waste to the surface to land, or a spill of any amount that reaches waters of the State, issue a press release to all print and electronic news media that provide general coverage in the county where the discharge occurred setting out the details of the discharge. The owner or operator shall issue the press release within 24 hours after the owner or operator has ~~determined that the discharge has reached the surface waters of the State~~ first knowledge of the spill. The owner or operator shall retain a copy of the press release and a list of the news media to which it was distributed for at least one year after the discharge and shall provide a copy of the press release and the list of the news media to which it was distributed to any person upon request.

...."

CONSOLIDATE VARIOUS WATER RESOURCES AND WATER QUALITY REPORTS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 5.(a) G.S. 143-355(m) is repealed.

SECTION 5.(b) G.S. 143-355(p) reads as rewritten:

"(p) Report. – The Department of Environmental Quality shall report to the Environmental Review Commission on the implementation of this section, including the development of the State water supply plan and the development of basinwide hydrologic models, no later than November 1 of each year. The Department shall submit the report required by this subsection with the report on basinwide water quality management plans required by G.S. 143-215.8B(d) as a single report."

COASTAL AREA MANAGEMENT ACT MODIFICATIONS

SECTION 6.(a) G.S. 113A-124(c) is amended by adding a new subdivision to read:

"(c) The Commission shall have the following additional powers and duties under this Article:

- (1) To recommend to the Secretary the acceptance of donations, gifts, grants, contributions and appropriations from any public or private source to use in carrying out the provisions of this Article.
- (2) To recommend to the Secretary of Administration the acquisition by purchase, gift, condemnation, or otherwise, lands or any interest in any lands within the coastal area.
- (3) To hold such public hearings as the Commission deems appropriate.
- (4) To delegate the power to conduct a hearing, on behalf of the Commission, to any member of the Commission or to any qualified employee of the Department. Any person to whom a delegation of power is made to conduct a hearing shall report his recommendations with the evidence and the record of the hearing to the Commission for decision or action.
- (5) Repealed by Session Laws 1987, c. 827, s. 141.
- (6) To delegate the power to determine whether a contested case hearing is appropriate in accordance with G.S. 113A-121.1(b).
- (7) To delegate the power to grant or deny requests for declaratory rulings under G.S. 150B-4 in accordance with standards adopted by the Commission.
- (8) To adopt rules to implement this Article.

(9) To delegate the power to approve land-use plan for a county in accordance with G.S. 113A-110(f) to any qualified employee of the Department."

SECTION 6.(b) G.S. 113A-119 reads as rewritten:

"§ 113A-119. Permit applications generally.

(a) Any person required to obtain a permit under this Part shall file with the Secretary and (in the case of a permit sought from a city or county) with the designated local official an application for a permit in accordance with the form and content designated by the Secretary and approved by the Commission. The applicant must submit with the application a check or money order payable to the Department or the city or county, as the case may be, constituting a fee set by the Commission pursuant to G.S. 113A-119.1.

(b) Upon receipt of any application, a significant modification to an application for a major permit, or an application to modify substantially a previously issued major permit, the Secretary shall issue public notice of the proposed development (i) by mailing a copy of the application or modification, or a brief description thereof together with a statement indicating where a detailed copy of the proposed development may be inspected, to any citizen or group which has filed a request to be notified of the proposed development, and to any interested State agency; (ii) with the exception of minor permit applications, by posting or causing to be posted a notice at the location of the proposed development stating that an application, a modification of an application for a major permit, or an application to modify a previously issued major permit for development has been made, where the application or modification may be inspected, and the time period for comments; and (iii) with the exception of minor permit applications, by publishing notice of the application or modification at least once in one newspaper of general circulation in the county or counties wherein the development would be located at least 20 days before final action on a major permit or before the beginning of the hearing on a permit under G.S. 113A-122. The notice shall set out that any comments on the development should be submitted to the Secretary by a specified date, not less than 15 days from the date of the newspaper publication of the notice or 15 days after mailing of the mailed notice, whichever is later.

(c) Within the meaning of this Part, the "designated local official" is the official who has been designated by the local governing body to receive and consider permit applications under this Part."

MISCELLANEOUS CHANGES TO STATUTES GOVERNING THE INTERSTATE WILDLIFE VIOLATOR COMPACT

SECTION 7.(a) G.S. 113-300.6 reads as rewritten:

"§ 113-300.6. Governor to execute compact; form of compact.

The Governor shall execute an Interstate Wildlife Violator Compact on behalf of the State of North Carolina with any state of the United States legally joining therein in the form substantially as follows:

...

Article II.

Definitions.

Unless the context requires otherwise, the definitions in this Article apply through this compact and are intended only for the implementation of this compact:

...

(15) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. "Wildlife" includes all species of animals that are protected or regulated by the Wildlife Resources Commission, ~~the Marine Fisheries Commission, or~~

the Division of Marine Fisheries in the Department of Environmental Quality. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Commission. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

...."

SECTION 7.(b) G.S. 113-300.7 reads as rewritten:

"§ 113-300.7. Appointment of Compact Administrator; implementation; rules; amendments.

(a) The Chair of the Wildlife Resources ~~Commission, in consultation with the Chair of the Marine Fisheries Commission and the Fisheries Director, Commission~~ shall appoint the Compact Administrator for North Carolina. The Compact Administrator shall serve at the pleasure of the Chair of the Wildlife Resources Commission.

(b) The Wildlife Resources ~~Commission, Commission and the Secretary of Environmental Quality, and the Division of Marine Fisheries Quality~~ may suspend or revoke the license, privilege, or right of any person to hunt, fish, trap, possess, or transport wildlife in this State to the extent that the license, privilege, or right has been suspended or revoked by another compact member under the provisions of this Article.

(c) The Wildlife Resources Commission ~~and the Marine Fisheries Commission~~ shall adopt rules necessary to carry out the purposes of this Article.

(d) Any proposed amendment to the Compact shall be submitted to the General Assembly as an amendment to G.S. 113-300.6. In order to be endorsed by the State of North Carolina as provided by subsection (b) of Article IX of the Compact, a proposed amendment to the Compact must be enacted into law."

USE OF FUNDS FROM THE I & M AIR POLLUTION CONTROL ACCOUNT

SECTION 8. G.S. 143-215.3A reads as rewritten:

"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title V Account; I & M Air Pollution Control Account; reports.

...

(b1) The I & M Air Pollution Control Account is established as a nonreverting account within the Department. Fees transferred to the Division of Air Quality of the Department pursuant to G.S. 20-183.7(c) shall be credited to the I & M Air Pollution Control Account and shall be applied to the costs of developing and implementing an air pollution control ~~program~~ for mobile sources program.

..."

CLARIFY SETBACK DETERMINATION FOR PERMITTED DISPOSAL SYSTEMS

SECTION 9. G.S. 143-215.1(i) reads as rewritten:

"(i) Any person subject to the requirements of this section who is required to obtain an individual permit from the Commission for a disposal system under the authority of G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as may be established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded. Multiple contiguous properties under common ownership and permitted for use as a disposal system shall be treated as a single property with regard to determination of a compliance ~~boundary-boundary and setbacks to property lines.~~"

REPEAL PLASTIC BAG BAN

1 **SECTION 10.(a)** Part 2G of Article 9 of Chapter 130A of the General Statutes is
2 repealed.

3 **SECTION 10.(b)** G.S. 130A-22(a) reads as rewritten:

4 "(a) The Secretary of Environmental Quality may impose an administrative penalty on a
5 person who violates Article 9 of this Chapter, rules adopted by the Commission pursuant to
6 Article 9, or any term or condition of a permit or order issued under Article 9. Each day of a
7 continuing violation shall constitute a separate violation. The penalty shall not exceed fifteen
8 thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous waste.
9 The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day in the
10 case of a first violation involving hazardous waste as defined in G.S. 130A-290 or involving
11 the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a manner that
12 results in medical waste entering waters or lands of the State; and shall not exceed fifty
13 thousand dollars (\$50,000) per day for a second or further violation involving the disposal of
14 medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in medical
15 waste entering waters or lands of the State. The penalty shall not exceed thirty-two thousand
16 five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial action
17 implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant to
18 G.S. 130A-310.12(b). ~~The penalty shall not exceed one hundred dollars (\$100.00) for a first~~
19 ~~violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;~~
20 ~~and five hundred dollars (\$500.00) for each additional violation within any 12-month period for~~
21 ~~any violation of Part 2G of Article 9 of this Chapter.~~ For violations of Part 7 of Article 9 of this
22 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the
23 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the
24 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person
25 fails to pay a civil penalty within 60 days after the final agency decision or court order has been
26 served on the violator, the Secretary of Environmental Quality shall request the Attorney
27 General to institute a civil action in the superior court of any county in which the violator
28 resides or has his or its principal place of business to recover the amount of the assessment.
29 Such civil actions must be filed within three years of the date the final agency decision or court
30 order was served on the violator."

31 **SECTION 10.(c)** Section 13.10(c) of S.L. 2010-31 is repealed.

32 **SECTION 10.(d)** This section becomes effective July 1, 2017.

33 34 **AMEND THE RULE FOR POOL LIGHTING**

35 **SECTION 11.(a)** Definitions. – "Pool Lighting and Ventilation Rule" means 15A
36 NCAC 18A .2524 (Lighting and Ventilation) for purposes of this section and its
37 implementation.

38 **SECTION 11.(b)** Pool Lighting and Ventilation Rule. – Until the effective date of
39 the revised permanent rule that the Commission for Public Health is required to adopt pursuant
40 to subsection (d) of this section, the Commission and local inspectors shall implement the Pool
41 Lighting and Ventilation Rule, as provided in subsection (c) of this section.

42 **SECTION 11.(c)** Implementation. – The Commission shall require pool
43 illumination sufficient to illuminate the main drains of a pool. The Commission shall require
44 pool illumination sufficient to illuminate the deck area of a pool so that it is visible at all times
45 the pool is in use, but shall not require specific foot candles of illumination for the deck area.

46 **SECTION 11.(d)** Additional Rule-Making Authority. – The Commission shall
47 adopt a rule to amend the Pool Lighting and Ventilation Rule consistent with subsection (c) of
48 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission, pursuant
49 to this section, shall be substantively identical to the provisions of subsection (c) of this section.
50 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
51 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 11.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

COASTAL STORMWATER PROGRAM VARIANCE

SECTION 12.(a) Notwithstanding S.L. 2008-211 and rules adopted to implement the act, any subdivision meeting all of the following requirements shall be deemed to be in compliance with the impervious surface limitations of the act and its implementing rules:

- (1) The subdivision's original declaration of covenants was recorded at least 20 years prior to the effective date of this act.
- (2) The original developer of the subdivision is financially insolvent.
- (3) The original developer of the subdivision transferred the stormwater permit to the homeowners association for the subdivision and, at the time of the transfer, the homeowners association had no notice from the original developer or any regulatory agency that the subdivision was not in compliance with the impervious surface limitations.

SECTION 12.(b) This section applies only to impervious surface built prior to January 1, 2017. Any impervious surface built on or after January 1, 2017, shall be subject to S.L. 2008-211 and its implementing rules.

AMEND THE RULE FOR PROTECTION OF EXISTING BUFFERS IN THE JORDAN LAKE WATERSHED TO EXEMPT CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC SAFETY

SECTION 13.(a) Definitions. – "Protection of Existing Buffers Rule" means 15A NCAC 02B .0267 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers) for purposes of this section and its implementation.

SECTION 13.(b) Protection of Existing Buffers Rule. – Until the effective date of the revised permanent rule that the Environmental Management Commission is required to adopt pursuant to subsection (d) of this section, the Commission and the Department of Environmental Quality shall implement the Protection of Existing Buffers Rule, as provided in subsection (c) of this section.

SECTION 13.(c) Implementation. – The Commission shall exempt from the applicability requirements of the Protection of Existing Buffers Rule any publicly owned spaces where it has been determined by the head of the local law enforcement agency with jurisdiction over that area that the buffers pose a risk to public safety.

SECTION 13.(d) Additional Rule-Making Authority. – The Commission shall adopt a rule to amend the Protection of Existing Buffers 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 13.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

AMEND THE RULE FOR PROTECTION AND MAINTENANCE OF EXISTING BUFFERS IN THE CATAWBA RIVER BASIN TO EXEMPT CERTAIN APPLICABILITY REQUIREMENTS FOR PUBLIC WALKING TRAILS

1 **SECTION 14.(a)** Definitions. – "Protection and Maintenance of Existing Riparian
2 Buffers Rule" means 15A NCAC 02B .0243 (Catawba River Basin: Protection and
3 Maintenance of Existing Riparian Buffers) for purposes of this section and its implementation.

4 **SECTION 14.(b)** Protection and Maintenance of Existing Riparian Buffers Rule. –
5 Until the effective date of the revised permanent rule that the Environmental Management
6 Commission is required to adopt pursuant to subsection (d) of this section, the Commission and
7 the Department of Environmental Quality shall implement the Protection and Maintenance of
8 Existing Riparian Buffers Rule, as provided in subsection (c) of this section.

9 **SECTION 14.(c)** Implementation. – The Commission shall exempt from the
10 applicability requirements of the Protection and Maintenance of Existing Riparian Buffers Rule
11 any publicly owned property that will be used for walking trails.

12 **SECTION 14.(d)** Additional Rule-Making Authority. – The Commission shall
13 adopt a rule to amend the Protection and Maintenance of Existing Riparian Buffers Rule
14 consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule
15 adopted by the Commission, pursuant to this section, shall be substantively identical to the
16 provisions of subsection (c) of this section. Rules adopted pursuant to this section are not
17 subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant
18 to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more
19 written objections had been received as provided by G.S. 150B-21.3(b2).

20 **SECTION 14.(e)** Sunset. – This section expires when permanent rules adopted as
21 required by subsection (d) of this section become effective.
22

23 **RIPARIAN BUFFER TAX EXCLUSION**

24 **SECTION 15.(a)** G.S. 105-275 reads as rewritten:

25 **"§ 105-275. Property classified and excluded from the tax base.**

26 The following classes of property are designated special classes under Article V, Sec. 2(2),
27 of the North Carolina Constitution and are excluded from tax:

28 ...

29 (49) That portion of real property that is subject to any of the following riparian
30 buffer rules and that is being used as a riparian buffer:

31 a. Neuse River Basin: Nutrient Sensitive Waters Management Strategy:
32 Protection and Maintenance of Existing Riparian Buffers (15A
33 NCAC 02B .0233).

34 b. Tar-Pamlico River Basin: Nutrient Sensitive Waters Management
35 Strategy: Protection and Maintenance of Existing Riparian Buffers
36 (15A NCAC 02B .0259).

37 c. Randleman Lake Water Supply Watershed: Protection and
38 Maintenance of Existing Riparian Buffers (15A NCAC 02B .0250).

39 d. Jordan Water Supply Nutrient Strategy: Protection of Existing
40 Riparian Buffers (15A NCAC 02B .0267).

41 e. Goose Creek Watershed Water Quality Management Plan (15A
42 NCAC 02B .0605, 15A NCAC 02B .0606, 15A NCAC 02B .0607,
43 15A NCAC 02B .0608).

44 f. Mitigation Program Requirements for Protection and Maintenance of
45 Riparian Buffers (15A NCAC 02B .0295)."

46 **SECTION 15.(b)** This section is effective for taxes imposed for taxable years
47 beginning on or after July 1, 2018."
48

49 **WATER QUALITY TESTING**

50 **SECTION 16.** The Division of Water Resources of the Department of
51 Environmental Quality shall conduct a water quality sampling program for nutrients along the

mainstem of the Catawba River. The study shall include water quality sampling for nutrients above, in, and below each major tributary of the Catawba River. No later than October 1, 2018, the Division shall report the results of the study to the Environmental Review Commission.

MINING PERMITTING REVISIONS

SECTION 17.(a) G.S. 74-50(d) reads as rewritten:

"(d) ~~An operating permit shall be granted for a period not exceeding 10 years. Except as provided in subsection (d1) of this section, permits for mining operations shall be issued for the life-of-site of the operation unless revoked as otherwise provided under this Article. For purposes of this section, "life-of-site" means the period from the initial receipt of a permit from the operation until~~ If the mining operation terminates and the reclamation required under the approved reclamation plan is completed, ~~completed prior to the end of the period, completed, the permit shall terminate.~~ Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan.

(d1) Permits for mining operations conducted on real property that is leased from a public entity shall be issued for the life-of-lease. For purposes of this subsection, the following terms apply: (i) "life-of-lease" means the duration of the lease between the owner or operator of the mining operation and a public entity; (ii) "public entity" means the State, any State agency, State college or university, county, municipal corporation, local board of education, community college, special district, or other political subdivision of the State. Termination of a permit shall not have the effect of relieving the operator of any obligations that the operator has incurred under an approved reclamation plan or otherwise. Where the mining operation itself has terminated, no permit shall be required in order to carry out reclamation measures under the reclamation plan."

SECTION 17.(b) G.S. 74-51(d)(7) is amended by adding a new sub-subdivision to read:

"f. Failure to pay the application processing fee required under G.S. 74-54.1"

SECTION 17.(c) G.S. 74-52 reads as rewritten:

"§ 74-52. Permits—Modification, renewal. Permit modifications.

(a) Any operator engaged in mining under an operating permit may apply at any time for modification of the permit. ~~A permittee may apply for renewal of the permit at any time during the two years prior to the expiration of the permit.~~ The application shall be in writing upon forms furnished by the Department and shall fully state the information called for. The applicant must provide the Department with any additional information necessary to satisfy application requirements. ~~The applicant is not required to resubmit information that remains unchanged since the time of the prior application.~~ In addition, the applicant may be required to furnish any other information as may be deemed necessary by the Department in order adequately to enforce the Article.

(b) ~~The procedure to be followed and standards to be applied in renewing a permit shall be the same as those for issuing a permit; provided, however, that in the absence of any changes in legal requirements for issuance of a permit since the date on which the prior permit was issued, the only basis for denying a renewal permit shall be an uncorrected violation of the type listed in G.S. 74-51(7), or failure to submit an adequate reclamation plan in light of conditions then existing.~~

(c) A modification under this section may affect the land area covered by the permit, the approved reclamation plan coupled with the permit, or other terms and conditions of the permit. A permit may be modified to include land neighboring the affected land, but not other

lands. The reclamation plan may be modified in any manner, so long as the Department determines that the modified plan fully meets the standards set forth in G.S. 74-53 and that the modifications would be generally consistent with the bases for issuance of the original permit. Other terms and conditions may be modified only where the Department determines that the permit as modified would meet all requirements of G.S. 74-50 and [G.S.] 74-51. ~~No modification shall extend the expiration date of any permit issued under this Article.~~

(d) No modification ~~or renewal~~ of a permit shall become effective until any required changes have been made in the performance bond or other security posted under the provisions of G.S. 74-54, so as to assure the performance of obligations assumed by the operator under the permit and reclamation plan."

SECTION 17.(d) G.S. 74-54 reads as rewritten:

"§ 74-54. Bonds.

(a) Each applicant for an operating ~~permit, or for the renewal of a permit~~ shall, following the approval of the application, file and maintain in force a bond in favor of the State of North Carolina, executed by a surety approved by the Commissioner of Insurance, in the amount set forth below. The bond herein provided for must be continuous in nature and shall remain in force until cancelled by the surety. Cancellation by the surety shall be effectuated only upon 60 days written notice thereof to the Department and to the operator.

(b) The applicant shall have the option of filing a separate bond for each operating permit or of filing a blanket bond covering all mining operations within the State for which the applicant holds a permit. The amount of each bond shall be based upon the area of affected land to be reclaimed under the approved reclamation plan or plans to which the bond pertains, less any area where reclamation has been completed and released from coverage by the Department, pursuant to G.S. 74-56, or based on any other criteria established by the ~~Commission~~. Commission, but shall not exceed one million dollars (\$1,000,000). The Department shall set the amount of the required bond in all cases, based upon a schedule established by the Commission.

...."

SECTION 17.(e) G.S. 74-54.1 reads as rewritten:

"§ 74-54.1. Permit fees.

(a) The fee schedule for the processing of permit applications, transfers, applications ~~and permit renewals~~ and modifications is as follows:

	0-25 acres	26+ acres
New Permit Applications	\$3,750.00	\$5,000.00
Permit Modifications	\$750.00	\$1,000.00
Permit Renewals	\$750.00	\$1,000.00
Permit Transfers	\$100.00	\$100.00

(a1) In addition to the fees set forth in subsection (a) of this section, permittees shall pay an annual operating fee of four hundred dollars (\$400.00) per permit per year as set forth in G.S. 74-55. The Department may charge a late fee of fifty dollars (\$50.00) per month per permit for every month or partial month that payment of the annual operating fee is delinquent.

...."

SECTION 17.(f) G.S. 74-55 reads as rewritten:

"§ 74-55. Reclamation report.

(a) ~~Within 30 days after completion or termination of mining on an area under permit or within 30 days after each anniversary of the issuance of the operating permit, whichever is earlier, or at such later date as may be provided by rules of the Department, and each year thereafter until reclamation is completed and approved, the~~ By July 1 of each year, the operator shall file a report of activities completed during the preceding year on a form prescribed by the Department, which shall include all of the following.

(1) Identify the mine, the operator and the permit ~~number;~~ number.

(2) State acreage disturbed by mining in the last 12-month ~~period;period.~~
(3) State and describe amount and type of reclamation carried out in the last 12-month ~~period;period.~~
(4) Estimate acreage to be newly disturbed by mining in the next 12-month ~~period;period.~~
(5) Provide such maps as may be specifically requested by the ~~Department.Department.~~
(6) Include the annual operating fee pursuant to G.S. 74-54.1(a1).
(b) When filing the annual report, the permittee shall pay the annual operating fee for the permit to the Department until the permit has been terminated by the Department. The Department may assess and collect a monthly penalty for each annual report or annual operating fee not filed by July 31 of each year until the annual report and annual operating fee are filed with the Department. If the required annual report and operating fee, including any late payment penalties, are not filed by December 31 of each year, the Department shall give written notice to the operator and shall then initiate permit revocation proceedings in accordance with G.S. 74-58."

SECTION 17.(g) G.S. 74-58 reads as rewritten:

"§ 74-58. Suspension or revocation of permit.

(a) Whenever the Department shall have reason to believe that a violation of (i) this Article, (ii) any rules adopted under this Article, or (iii) the terms and conditions of a permit, including the approved reclamation plan, has taken place, it shall serve written notice of the apparent violation upon the operator, specifying the facts constituting the apparent violation and informing the operator of the operator's right to an informal conference with the Department. The date for an informal conference shall be not less than 15 nor more than 30 days after the date of the notice, unless the Department and the operator mutually agree on another date. If the operator or the operator's representative does not appear at the informal conference, or if the Department following the informal conference finds that there has been a violation, the Department may suspend the permit until the violation is corrected or may revoke the permit where the violation appears to be ~~willful~~, or where the permittee has failed to pay the fee or late payment penalties required by G.S. 74-55(b).

(b) The effective date of any suspension or revocation shall be 30 days following the date of the decision. The filing of a petition for a contested case under G.S. 74-61 shall stay the effective date until issuance of a final decision. If the Department finds at the time of its initial decision that any delay in correcting a violation would result in imminent peril to life or danger to property or to the environment, it shall promptly initiate a proceeding for injunctive relief under G.S. 74-64 hereof and Rule 65 of the Rules of Civil Procedure. The pendency of any appeal from a suspension or revocation of a permit shall have no effect upon an action for injunctive relief.

(c) Any operator whose permit has been suspended or revoked shall be denied a new permit or ~~a renewal of an existing~~ reinstatement of the suspended permit to engage in mining until the operator gives evidence satisfactory to the Department of the operator's ability and intent to fully comply with the provisions of this Article and rules adopted under this Article, and the terms and conditions of the permit, including the approved reclamation plan, and that the operator has satisfactorily corrected all previous violations."

SECTION 17.(h) G.S. 74-60 reads as rewritten:

"§ 74-60. Notice.

Whenever in this Article written notice is required to be given by the Department, such notice shall be mailed by registered or certified mail to the permanent address of the operator set forth in his most recent application for an operating permit or for a modification ~~or renewal~~ of such permit. No other notice shall be required."

1 **SECTION 17.(i)** Notwithstanding G.S. 74.55(b), as enacted by subsection (f) of
2 this section, the initial annual operating fee imposed by G.S. 74-54.1, as enacted by subsection
3 (e) of this section, shall be due December 31, 2017.

4 **SECTION 17.(j)** This section becomes effective when it becomes law, and
5 applies to: (i) valid permits for existing mining operations issued before the date this act
6 becomes effective, and (ii) new mining operations for applications, pending or submitted on or
7 after that date. No later than December 1, 2017, the Department shall issue life-of-site permits,
8 or life-of-lease permits, as applicable, to replace valid permits for existing mining operations
9 issued before the date this act becomes effective in compliance with the provisions of this act.
10 Until such time as life-of-site permits, or life-of-lease permits, as applicable, have been issued
11 to replace valid permits for existing mining operations issued before the date this act becomes
12 effective, any valid permit and its terms and conditions shall remain in effect and govern the
13 operations of the facility notwithstanding any termination date that may be included in such
14 permit.

15
16 **AUTHORIZE PRIVATE CONDEMNATION OF LAND FOR PIPELINES AND MAINS**
17 **ORIGINATING OUTSIDE OF NORTH CAROLINA**

18 **SECTION 18.(a)** G.S. 40A-3(a) reads as rewritten:

19 **"§ 40A-3. By whom right may be exercised.**

20 (a) Private Condemnors. – For the public use or benefit, the persons or organizations
21 listed below shall have the power of eminent domain and may acquire by purchase or
22 condemnation property for the stated purposes and other works which are authorized by law.

23 (1) Corporations, bodies politic or persons have the power of eminent domain
24 for the construction of railroads, power generating facilities, substations,
25 switching stations, microwave towers, roads, alleys, access railroads,
26 turnpikes, street railroads, plank roads, tramroads, canals, telegraphs,
27 telephones, electric power lines, electric lights, public water supplies, public
28 sewerage systems, flumes, bridges, and pipelines or mains ~~originating in~~
29 ~~North Carolina~~ for the transportation of petroleum products, coal, gas,
30 limestone or minerals. Land condemned for any liquid pipelines shall:

31 a. Not be less than 50 feet nor more than 100 feet in width; and

32 b. Comply with the provisions of G.S. 62-190(b).

33 The width of land condemned for any natural gas pipelines shall not be more
34 than 100 feet.

35 "

36 **SECTION 18.(b)** This section is effective when it becomes law and applies to
37 takings occurring on or after that date.

38
39 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

40 **SECTION 19.(a)** If any section or provision of this act is declared unconstitutional
41 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
42 than the part declared to be unconstitutional or invalid.

43 **SECTION 19.(b)** Except as otherwise provided, this act is effective when it
44 becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

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

H56-ASB-31 [v.6]

Page 1 of 3

Amends Title [NO]
PCS H56-CSSBf-23[v.6]

Date 5-31- 2017

Senator Wells

moves to amend the bill on page 4, line 23, through page 5, line 16,
by rewriting those lines to read:

"CLARIFICATION FOR REPORTING OF WASTEWATER DISCHARGES

SECTION 4. G.S. 143-215.1C reads as rewritten:

**"§ 143-215.1C. Report to wastewater system customers on system performance; report
discharge of untreated wastewater to the Department; publication of notice of
discharge of untreated wastewater and waste.**

(a) Report to Wastewater System Customers. – The owner or operator of any
wastewater collection or treatment works, the operation of which is primarily to collect or treat
municipal or domestic wastewater and for which a permit is issued under this Part and having
an average annual flow greater than 200,000 gallons per day, shall provide to the users or
customers of the collection system or treatment works and to the Department an annual report
that summarizes the performance of the collection system or treatment works and the extent to
which the collection system or treatment works has violated the permit or federal or State laws,
regulations, or rules related to the protection of water quality. The report shall be prepared on
either a calendar or fiscal year basis and shall be provided no later than 60 days after the end of
the calendar or fiscal year.

(a1) Report Discharge of Untreated Wastewater to the Department. – Except as required
in subsection (d) of this section, the ~~The~~ owner or operator of any wastewater collection or
treatment works ~~for which a permit is issued under this Part~~ shall report a discharge of 1,000
gallons or more of untreated wastewater ~~to the surface to land, or a spill of any amount that~~
reaches waters of the State ~~State~~, to the Department as soon as practicable, but no later than 24
hours after the owner or operator has ~~determined that the discharge has reached the surface~~
waters of the State ~~first knowledge of the spill~~. This reporting requirement shall be in addition
to any other reporting requirements applicable to the owner or operator of the wastewater
collection or treatment works.

(b) Publication of Notice of Discharge of Untreated Wastewater. – Except as required
in subsection (d) of this section, the ~~The~~ owner or operator of any wastewater collection or
treatment works, the operation of which is primarily to collect or treat municipal or domestic
wastewater ~~and for which a permit is issued under this Part~~ shall:

...



* H 5 6 - A S B - 3 1 - V - 6 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

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

H56-ASB-31 [v.6]

Page 2 of 3

1 (c) Publication of Notice of Discharge of Untreated Waste. – Except as required in
2 subsection (d) of this section, the ~~The~~ owner or operator of any wastewater collection or
3 treatment works, other than a wastewater collection or treatment works the operation of which
4 is primarily to collect or treat municipal or domestic wastewater, ~~for which a permit is issued~~
5 ~~under this Part~~ wastewater shall:

6
7 (d) During extraordinary circumstances, including major floods, named storms, or
8 extreme weather, which make it impracticable to measure or otherwise collect data regarding a
9 discharge, the Department may extend the time period for making, or the Department may
10 waive, reports required under subsection (a1) of this section, including any written, follow-up
11 report required pursuant thereto. In the event of extraordinary circumstances, the Department
12 may also extend the time period for issuing or publishing, or the Department may waive, any
13 press release or notice required under subsections (b) and (c) of this section."";

14
15
16 and on page 6, line 33, through page 7, line 37,
17 by deleting the lines;

18
19 on page 9, lines 12 and 13,
20 by rewriting the lines to read:

21
22 "(2) The original developer of the subdivision transferred the stormwater permit";

23
24 and on page 10, lines 45,
25 by rewriting the line to read:

26
27 "Riparian Buffers (15A NCAC 02B .0295).
28 g. Catawba River Basin: Protection and Maintenance of Existing
29 Riparian Buffers (15A NCAC 02B .0243)."";

30
31 moves to amend the bill on page 12, line 13,
32 by rewriting that line to read:

33
34 "(a) Each applicant for an operating permit, or for the ~~renewal of a~~ modification of an
35 existing permit shall, ";

36
37 and on page 14, line 6,
38 by rewriting that line to read:

39
40 "becomes effective, and (ii) any permit application for a mining operation, pending or
41 submitted on or".

42
43 and by renumbering the subsequent sections accordingly.

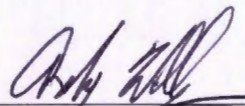
NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

H56-ASB-31 [v.6]

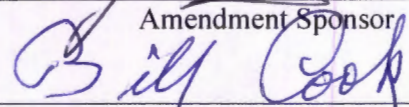
AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 3 of 3

SIGNED _____


Amendment Sponsor

SIGNED _____


Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

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

H56-ASB-33 [v.2]

Page 1 of 3

Amends Title [NO]
H56-CSSBf-23[v.6]

Date 5-31-2017

Senator ~~BRITTS~~ ~~BRITTS~~ *Sandersen*

1 moves to amend the bill on page 14, lines 38 and 39,
2 by inserting between the lines:

3
4 **"MARINE FISHERIES COMMISSION AMENDMENTS**

5 **SECTION 19.(a) G.S. 143B-289.52 reads as rewritten:**

6 **"§ 143B-289.52. Marine Fisheries Commission – powers and duties.**

7 ...

8 (e1) A supermajority of the Commission shall be ~~six~~ five members. A supermajority
9 shall be necessary ~~to override recommendations from the Division of Marine Fisheries~~
10 ~~regarding measures needed to end overfishing or to rebuild overfished stocks for any action~~
11 ~~taken under the powers and duties set forth in this section, including rule making and the~~
12 ~~regulation of fisheries under a fishery management plan.~~

13"

14 **SECTION 19.(b) G.S. 143B-289.54 reads as rewritten:**

15 **"§ 143B-289.54. Marine Fisheries Commission – members; appointment; term; oath;**
16 **ethical standards; removal; compensation; staff.**

17 (a) Members, Selection. – The Marine Fisheries Commission shall consist of ~~nine~~ seven
18 members appointed by the Governor as follows:

19 (1) One person actively engaged in, or recently retired from, commercial fishing
20 as demonstrated by currently or recently deriving at least fifty percent (50%)
21 of annual earned income from taking and selling fishery resources in coastal
22 fishing waters of the State. The spouse of a commercial fisherman who
23 meets the criteria of this subdivision may be appointed under this
24 subdivision.

25 (2) One person actively engaged in, or recently retired from, commercial fishing
26 as demonstrated by currently or recently deriving at least fifty percent (50%)
27 of annual earned income from taking and selling fishery resources in coastal
28 fishing waters of the State. The spouse of a commercial fisherman who
29 meets the criteria of this subdivision may be appointed under this
30 subdivision.

31 (3) One person actively connected with, and experienced as, a licensed fish
32 dealer or in seafood processing or distribution as demonstrated by deriving



* H 5 6 - A S B - 3 3 - V - 2 *

**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56**

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

H56-ASB-33 [v.2]

Page 2 of 3

1 at least fifty percent (50%) of annual earned income from activities
2 involving the buying, selling, processing, or distribution of seafood landed in
3 this State. The spouse of a person qualified under this subdivision may be
4 appointed provided that the spouse is actively involved in the qualifying
5 business.

6 (4) One person actively engaged in recreational sports fishing in coastal waters
7 in this State. An appointee under this subdivision may not derive more than
8 ten percent (10%) of annual earned income from sports fishing activities.

9 (5) One person actively engaged in recreational sports fishing in coastal waters
10 in this State. An appointee under this subdivision may not derive more than
11 ten percent (10%) of annual earned income from sports fishing activities.

12 (6) One person actively engaged in the sports fishing industry as demonstrated
13 by deriving at least fifty percent (50%) of annual earned income from selling
14 goods or services in this State. The spouse of a person qualified under this
15 subdivision may be appointed provided that the spouse is actively involved
16 in the qualifying business.

17 ~~(7) One person having general knowledge of and experience related to subjects~~
18 ~~and persons regulated by the Commission.~~

19 ~~(8) One person having general knowledge of and experience related to subjects~~
20 ~~and persons regulated by the Commission.~~

21 (9) One person who is a fisheries scientist having special training and expertise
22 in marine and estuarine fisheries biology, ecology, population dynamics,
23 water quality, habitat protection, or similar knowledge. A person appointed
24 under this subdivision may not receive more than ten percent (10%) of
25 annual earned income from either the commercial or sports fishing
26 industries, including the processing and distribution of seafood.

27 (b) Residential Qualifications. – For purposes of providing regional representation on
28 the Commission, the following three coastal regions of the State are designated: (i) Northeast
29 Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax,
30 Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and Washington Counties,
31 (ii) Central Coastal Region comprised of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico
32 Counties; and (iii) Southeast Coastal Region comprised of Bladen, Brunswick, Columbus, New
33 Hanover, Onslow, and Pender Counties. Persons appointed under subdivisions (1), (2), (3), ~~(4),~~
34 ~~and (8) and (4)~~ of subsection (a) of this section shall be residents of one of the coastal regions of
35 the State. The membership of the Commission shall include at least one person who is a
36 resident of each of the three coastal regions of the State.

37 (c) Additional Considerations. – In making appointments to the Commission, the
38 Governor shall provide for appropriate representation of women and minorities on the
39 Commission.

40 (d) Terms. – The term of office of members of the Commission is three years. A
41 member may be reappointed to any number of successive three-year terms. Upon the expiration
42 of a three-year term, a member shall continue to serve until a successor is appointed and duly
43 qualified as provided by G.S. 128-7. The term of members appointed under subdivisions ~~(1),~~

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

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

H56-ASB-33 [v.2]

Page 3 of 3

1 ~~(4), and (7)~~(1) and (4) of subsection (a) of this section shall expire on 30 June of years evenly
2 divisible by three. The term of members appointed under subdivisions ~~(2), (5), and (8)~~(2) and
3 ~~(5)~~ of subsection (a) of this section shall expire on 30 June of years that precede by one year
4 those years that are evenly divisible by three. The term of members appointed under
5 subdivisions (3), (6), and (9) of subsection (a) of this section shall expire on 30 June of years
6 that follow by one year those years that are evenly divisible by three.

7"

8 **SECTION 19.(c)** G.S. 113-182.1(e1) reads as rewritten:

9 "(e1) If the Secretary determines that it is in the interest of the long-term viability of a
10 fishery, the Secretary may authorize the Commission to develop expedited temporary
11 management measures to supplement an existing Fishery Management Plan pursuant to this
12 subsection. Management measures considered in a supplement shall be strictly limited to those
13 management strategies contained in the original fishery management plan or subsequent
14 amendments to the plan adopted by the Marine Fisheries Commission and shall not include
15 management measures that either (i) were not originally developed in accordance with this
16 section or (ii) result in severe curtailment of the usefulness or value of equipment as provided
17 by G.S. 113-221(d). Development of temporary management measures pursuant to this
18 subsection is exempt from subsections (c), (c1), and (e) of this section and the Priority List,
19 Schedule, and guidance criteria established by the Marine Fisheries Commission under
20 G.S. 143B-289.52. During the next review period for a Fishery Management Plan
21 supplemented pursuant to this subsection, the Commission shall either incorporate the
22 temporary management measures into the revised Fishery Management Plan or the temporary
23 management measures shall expire on the date the revised Fishery Management Plan is
24 adopted."" and

25
26
SIGNED _____

Norma Sanderson
Amendment Sponsor

SIGNED _____

Bill Cook
Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____

Handwritten signature in blue ink, possibly reading "J. H. [unclear]".



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 56

H56-ASB-32 [v.2]

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

Page 1 of 1

Amends Title [NO]
Third Edition

Date 5-31-2017

Senator B. H.

1 moves to amend the bill on page 14, lines 38 and 39,
2 by inserting between the lines:
3

4 "SECTION 19.(a) As used in this section, "sand dune system" means "primary
5 dunes" and "frontal dunes" as defined in 15A NCAC 07H .0305 and any secondary or other
6 dunes.

7 SECTION 19.(b) Except as otherwise provided by law, a city or county that has
8 accepted State funds for inlet dredging, beach renourishment, or dune construction or
9 maintenance shall prohibit any alteration, excavation, or removal of sand in the sand dune
10 system in areas subject to inundation by the one-percent annual chance flood event unless the
11 sand dune system provides adequate flood protection to withstand erosion during the one-
12 percent annual chance flood event. A sand dune system must have a minimum frontal dune
13 reservoir (dune cross-section above 100-year stillwater level and seaward of dune peak) of 540
14 square feet to be considered substantial enough to withstand erosion during a one-percent
15 annual chance flood event.

16 SECTION 19.(c) The State shall not provide State funds for inlet dredging, beach
17 renourishment, or dune construction or maintenance to any city or county unless the applicant
18 for such funds provides a certification showing that it has complied with this section." and
19

20 by renumbering the subsequent sections accordingly.

SIGNED

[Signature]

Amendment Sponsor

SIGNED

[Signature]

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 5 6 - A S B - 3 2 - V - 2 *



Senate Committee
On
Ag/Nat & Econ Resources

May 31, 2017

Room 1027/1128

9:00 AM

Senate Sergeant at Arms

Billy Fritscher
Giles Jeffreys
Frances Patterson



Senate Pages Attending

COMMITTEE: Agriculture ... ROOM: 1027
 DATE: 5-31 TIME: 9 AM

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

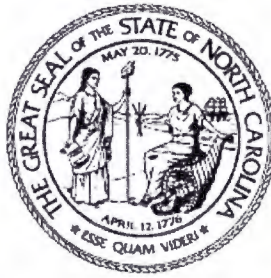
	Page Name	Hometown	Sponsoring Senator
1.	Lawson Rink	Mineola Springs	Tucker
2.	Parker Collins	Clayton	Horner
3.	Anthony Caropolo ^{Caropolo}	Wilmington	Lee
4.	Reginald Harris	Roanoke Rapids	Byant
5.	Ian Dollar	Cary	Harrington
6.	Colson Combs	Raleigh	Blue
7.	massiah Jackson	CLAYTON	MCKISSICK
8.	Nathan Ostrowski	Mooreville	Curtis

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



1756
456
~~11576~~
~~11576~~





Ag/Natural Resources

May 31, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
DAVID SNEED	CCA NC
Doug Laster	NCSTA
David McGowan	NCPC
Lamar Harkley	MVA
Tommy Smith	muc
JOHN COOPER	Connect C
Bridgette Harkley	NCPC
Paul Sherne	NCFB
Rachael Nixon	Smith Anderson
W. Doreen Calappa	PPAB
Leslie Young	Ward and Smith, P.A.
High John	NCCN
Jeff Canaday	NCCN
Melby Diggins	NC Sierra Club
Mike Abraczinskas	NC DEQ
Debra Clark	WNC
Job Harsh	NFS
John Cant	ALC/ASD





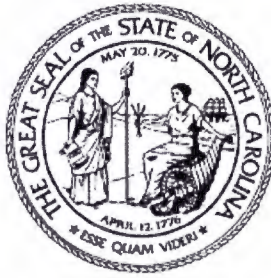
Ag/Natural Resources

May 31, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Preston Howard	NCMA
Jay Stem	NCAA
Sarah Collins	NCLM
Andy Elle	NCA
Elizabeth Pitaro	NCPM
Maggie Meyers	Siena club
Sarah Smith	Free land
Dexter Matthews	NC SWANA
Chris Anderson	si
Vincent Gauthier	NCLCV
Graham Jackson	NCLCV
DAN CRAWFORD	NCLCV
Phoebe Hadden	MVC
Ellen Linscheider	NCDEQ
Amanda Donovan	KTS
Ches McDowell	KTS
Cassie Gavin	Siena club
Vanessa Andersen	NCLCB





Ag/Natural Resources

May 31, 2017

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Amaganda R. witwer	Intern
Rob Hammet	FLA
Kelly Garry	Citizen
Toni Ben	EDF
And Miller	DCQ
Lee Suf	NCPAN
WRC	WRC
Sarah Bales	Burkholder Assoc.
Rochelee Spaullo	CFSH
Tim Minin	NCTA
Steve Wynn	NCTA
Ken M. Hon	K M A.
Lori A. Harris	HALA



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 21, 2017, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO. SHORT TITLE

HB 272 Fox and Coyote Trapping.
HB 770 Noncommercial USTs/Rule-Making
Report. *FOR DIS only*

SPONSOR

Representative Zachary
Representative K. Hall
Representative McElraft
Representative B. Turner
Representative Harrison

Presentations

Other Business

Adjournment



Sanderson



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, June 21, 2017

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

FAVORABLE

HB 272 (CS#1)

Fox and Coyote Trapping.

Draft Number: None

Sequential Referral: Rules and Operations of the Senate

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 1

Committee Clerk Comments:

Report 1 of 1

Senator Andrew C. Brock will handle HB 272



* C M R 5 5 9 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 21, 2017 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:00 AM on June 21, 2017 in Room 1027/1128 of the Legislative Building. 17 members were present.

Senator Norman W. Sanderson, Chair, presided.

Senator Cook began the meeting as Senator Sanderson was delayed in another meeting.

The chair recognized Sergeant at Arms Terry Edmondson, Larry Hancock, and Charles Marsalis. The chair also recognized pages Matthew and Mitchell Barker of Brown Summit, NC sponsored by Senator Berger, Katie Long of Holly Springs, NC sponsored by Senator Berger, Joy and Heaven Blocker of Garner, NC sponsored by Senator B. Jackson, Harley Minton of Wilkesboro, NC sponsored by Senator Randleman, and Emily Kohn of Durham, NC sponsored by Senator Foushee.

HB 272 Fox and Coyote Trapping. (Representative Zachary)

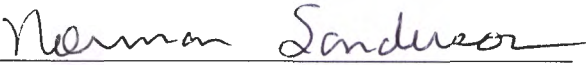
Representative Zachary presented the bill. HB 272 permits fox and coyote trapping in Davie and Yadkin counties. Representative Zachary responded to questions from Senator Alexander. There was no public comment. Senator Brock moved for a favorable report. Motion was passed.

Senator Sanderson assumed his role as chair of the committee from Senator Cook

HB 770 Various Clarifying Changes. (Representatives K. Hall, McElraft)

HB 770 amends various environmental laws. Senator Cook motioned to approve discussion of the PCS. Staff presented the House portion of the bill. Senator Cook presented the Senate PCS. It was noted that this PCS was presented for discussion only; no vote will be taken in this meeting. Senator Cook and staff answered questions from Senator Bryant.

There being no further discussion, the meeting adjourned at 9:27 am.



Senator Norman W. Sanderson, Chair
Presiding



Kathy Voss, Committee Clerk





HOUSE BILL 272: Fox and Coyote Trapping.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 21, 2017
Introduced by:	Rep. Zachary	Prepared by:	Mariah Matheson
Analysis of:	Second Edition		Research Assistant

OVERVIEW: *House Bill 272 would permit the trapping of foxes from October 1 through February 28 and the trapping of coyotes from October 1 through March 31 in Davie and Yadkin Counties. The bill would allow for the sale of foxes and coyotes legally taken by trapping in these counties.*

CURRENT LAW: Fox trapping currently is not permitted in Davie and Yadkin Counties, but year-round fox hunting with weapons is permitted. Fox trapping is allowed in 41 counties. In some counties, trappers are exempt from tagging requirements, and in some counties, the sale of foxes is prohibited.

It is legal to trap coyotes during the regulated trapping seasons established by the Wildlife Resources Commission (WRC). It is also legal to trap coyotes during any fox-trapping season established by statute or by local law, using methods described in statute. There are no tagging requirements for coyotes.

BILL ANALYSIS: House Bill 272 would permit the trapping of foxes from October 1 through February 28 and the trapping of coyotes from October 1 through March 31 in Davie and Yadkin Counties. There would be no bag limit for foxes or coyotes taken by trapping pursuant to this act. House Bill 272 would also direct the WRC to provide for the sale of foxes and coyotes taken legally pursuant to this act. The bill would impose no tagging requirements before or after sale. This bill would apply only to Davie and Yadkin Counties.

EFFECTIVE DATE: This act would become effective when it becomes law.

BACKGROUND:

More information on fox trapping seasons for different counties can be found at:

http://www.ncwildlife.org/Regs/documents/fox_seasons_dates.pdf

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 272
Committee Substitute Favorable 4/11/17

Short Title: Fox and Coyote Trapping. (Local)

Sponsors:

Referred to:

March 8, 2017

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT FOX AND COYOTE TRAPPING IN DAVIE AND YADKIN
3 COUNTIES.
4 The General Assembly of North Carolina enacts:
5 **SECTION 1.(a)** Notwithstanding any other provision of law, there is an open
6 season for taking foxes by trapping from October 1 through February 28 of each year, with no
7 tagging requirements prior to or after sale.
8 **SECTION 1.(b)** Notwithstanding any other provision of law, the open season for
9 taking coyotes by trapping shall be October 1 through March 31 of each year.
10 **SECTION 2.** No bag limit applies to foxes or coyotes taken under this act.
11 **SECTION 3.** The Wildlife Resources Commission shall provide for the sale of
12 foxes and coyotes taken lawfully pursuant to this act.
13 **SECTION 4.** This act applies only to the Counties of Davie and Yadkin.
14 **SECTION 5.** This act is effective when it becomes law.



* H 2 7 2 - V - 2 *



Sanderson





HOUSE BILL 770: Amend Environmental Laws 3.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Appropriations/Base Budget. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 21, 2017
Introduced by:	Reps. K. Hall, McElraft, B. Turner, Harrison	Prepared by:	Jeff Hudson
Analysis of:	PCS to Third Edition H770-CSSB-27		Jennifer McGinnis Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 770 (PCS) would amend various environmental and natural resources laws.*

CURRENT LAW, BACKGROUND, AND BILL ANALYSIS:

REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND STORAGE TANKS

Section 1 would direct the Environmental Management Commission (EMC) to adopt temporary rules implementing a provision in the 2015 Appropriations Act no later than October 1, 2017, and provide that the temporary rules will remain in effect until permanent rules are adopted, and have become effective. The provision would also require that the EMC report on the status of the rulemaking to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

The provision in the 2015 Appropriations Act directed the Department to amend several rules pertaining to risk-based assessment and corrective action for USTs to do the following:

- "(1) Not require a responsible party to take immediate action or initial abatement actions with respect to a discharge or release from a noncommercial underground storage tank until such time as the Department has classified the risk posed by the discharge or release, except for those actions determined by the Department to be necessary to protect public health, safety, and welfare and the environment, and to mitigate any fire, explosion, or vapor hazard.
- (2) Notify the responsible party that no cleanup, no further cleanup, or no further action will be required by the Department if the risk posed by a discharge or release from a noncommercial underground storage tank is determined by the Department to be low risk, without requiring soil remediation pursuant to 15A NCAC 02L .0408. The Department may, however, reclassify the risk if it later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment."

Waren Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 770

Page 2

SHELLFISH ENTERPRISE AREAS

Section 2 would authorize the Marine Fisheries Commission (MFC) to adopt rules to provide for advanced siting and preapprovals of shellfish aquaculture leases.

MARINE FISHERIES CLARIFYING CHANGES

Current State law on shellfish aquaculture provides:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the restricted or conditionally approved classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the restricted or conditionally approved classification to private beds as approved by the Secretary of Environmental Quality (Secretary).
- It is lawful to sell oysters or clams from a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

Section 3 would make the following changes to State law on shellfish aquaculture:

- It is unlawful to transplant shellfish from public grounds or permitted aquaculture operations utilizing waters in the prohibited classification to private beds.
- It is lawful to transplant shellfish in the seed stage from permitted aquaculture operations that use waters in the prohibited, restricted, or conditionally approved classification unless the Secretary determines that it would present a risk to public health.
- It is lawful to sell fish reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Underdock Culture Permit, or a shellfish cultivation lease.

RIVER HERRING FISHERIES MANAGEMENT

Section 4 would direct the Division of Marine Fisheries (DMF) to review its Fishery Management Plan (FMP) for River Herring regarding the validity and scientific basis for the status of the species as overfished. If DMF determines that it does not have an adequate scientific basis to review the status of the species, then DMF should develop costs estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

Section 5 would authorize the Division of Coastal Management of the Department of Environmental Quality and the State Property Office to negotiate an agreement with appropriate agencies of the federal government for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund (Fund). Section 6 modifies the statutory permissible uses of the Fund for this purpose.

PRESERVE MUNICIPAL SOLID WASTE CAPACITY

Section 6 would prohibit units of local government from enacting ordinances to prohibit the disposal of construction and demolition (C&D) debris in a C&D landfill.

C&D waste or debris is defined under the statutes to mean "solid waste resulting solely from construction, remodeling, repair, or demolition operations on pavement, buildings, or other structures, but does not include inert debris, land clearing debris or yard debris." Such debris may be disposed in C&D landfills, municipal solid waste landfills, and portions of the C&D waste stream, including clean wood and clean brick, block, etc., could be eligible for disposal in a land clearing and inert debris landfill. In addition, demolition debris from the decommissioning of manufacturing buildings may be disposed of on the same site as the decommissioned buildings if certain requirements are met.

The statutes currently authorize units of local government to, by ordinance, require that all solid waste generated within the geographic area and placed in the waste stream for disposal, be delivered to a permitted solid waste management facility or facilities serving the geographic area. Such ordinances are often called "flow control" ordinances, which are provisions that allow state and local governments to designate the places where solid waste must be taken for processing, treatment, or disposal. Flow control ordinances are tools sometimes used by local governments to plan and fund solid waste management systems.

ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND

Section 7 would establish the Coastal Storm Damage Mitigation Fund that would consist of General Fund appropriations, gifts, grants, devises, monies from non-State entities, and any other revenues allocated to the Fund by the General Assembly. Revenue in the Fund could only be used for beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to ocean beaches and dune systems. Funding for projects in tier one areas would require a non-State match of one dollar for every three dollars from the Fund and funding for projects not located in tier one areas would require a non-State match of one dollar for every two dollars from the Fund. Non-State entities that contribute to the Fund may request the return of funds that haven't been spent or encumbered within two years of receipt by the Fund.

EFFECTIVE DATE

Except as otherwise provided, the bill would become effective when it becomes law.

Sunderson

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 770
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H770-PCS10389-SB-27

Short Title: Amend Environmental Laws 3.

(Public)

Sponsors:

Referred to:

April 13, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND**
6 **STORAGE TANKS**

7 **SECTION 1.(a)** The Environmental Management Commission shall adopt
8 temporary rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017.
9 Notwithstanding G.S. 150B-21.1(d), the temporary rules shall remain in effect until the
10 effective date of the permanent rule adopted to replace the temporary rule.

11 **SECTION 1.(b)** The Commission shall report regarding the status of the rule
12 making required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research
13 Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and
14 Natural and Economic Resources no later than December 31, 2017.

15
16 **SHELLFISH ENTERPRISE AREAS**

17 **SECTION 2.(a)** G.S. 113-201 is amended by adding a new subsection to read:
18 "(d) The Marine Fisheries Commission may adopt rules to establish Shellfish
19 Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced
20 siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue
21 nontransferrable leases within designated Shellfish Aquaculture Enterprise Areas. Any leased
22 parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall
23 revert to the State and be made available to other applicants."

24 **SECTION 2.(b)** G.S. 113-201.1 is amended by adding a new subdivision to read:
25 "(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and
26 permitted by the Department that is subdivided into parcels and made
27 available for shellfish aquaculture leasing."

28
29 **MARINE FISHERIES CLARIFYING CHANGES**

30 **SECTION 3.(a)** G.S. 113-203 reads as rewritten:
31 **"§ 113-203. Transplanting of oysters and clams.**

32 ...
33 (a2) It is unlawful to do any of the following:



* H 7 7 0 - P C S 1 0 3 8 9 - S B - 2 7 *

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
 - (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
 - (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.
- (a3) ~~It—Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:~~
- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
 - (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

SECTION 3.(b) G.S. 113-168.4(b) reads as rewritten:

"(b) Except as otherwise provided in this section, it is unlawful for any person licensed under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken from coastal fishing waters. A person licensed under this Article may sell fish taken outside the territorial waters of the State or sell fish taken from coastal fishing waters under any of the following circumstances:

- (1) The sale is to a fish dealer licensed under G.S. 113-169.3.
- (2) The sale is to the public and the seller is a licensed fish dealer under G.S. 113-169.3.
- (3) The sale is of ~~oysters or clams from fish~~ reared in a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Under Dock Culture Permit, or a shellfish cultivation lease for further grow out."

RIVER HERRING FISHERIES MANAGEMENT

SECTION 4. The Division of Marine Fisheries shall review its Fishery Management Plan for river herring (blueback herring, *Alosa aestivalis*, and alewife, *Alosa pseudoharengus*) and report no later than December 15, 2017, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources regarding the continuing validity and scientific basis for the continued status of both species as "overfished." If the Division does not have an adequate scientific basis to review the status of both species, then the report should include cost estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

SECTION 5.(a) The Division of Water Resources of the Department of Environmental Quality and the State Property Office are authorized to negotiate with appropriate agencies of the federal government an agreement for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the

Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division of Coastal Management and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund established under Part 8B of Article 21 of Chapter 143 of the General Statutes for that purpose.

SECTION 5.(b) G.S. 143-215.73F(b) is amended by adding a new subdivision to read:

"(4) To provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway north of Beaufort Inlet and south of the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government."

PRESERVE MUNICIPAL SOLID WASTE CAPACITY

SECTION 6. G.S. 130A-309.09B(a) reads as rewritten:

"(a) Each unit of local government shall establish and maintain a solid waste reduction program. The following requirements shall apply:

- (1) Demolition debris consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material may be used as fill and need not be disposed of in a permitted landfill or solid waste disposal facility, provided that demolition debris may not be placed in the waters of the State or at or below the seasonal high water table.
- (2) Repealed by Session Laws 1991, c. 621, s. 8.
- (3) Units of local government are encouraged to separate marketable plastics, glass, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses.
- (4) Notwithstanding G.S. 130A-291(b), units of local government shall not, by ordinance or otherwise, prohibit the disposal of construction and demolition debris in any sanitary landfill permitted for the disposal of construction and demolition debris, which landfill has a valid and operative franchise agreement and is otherwise properly permitted pursuant to G.S. 130A-294."

ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND

SECTION 7. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8D. Coastal Storm Damage Mitigation Fund.

"§ 143-215.73M. Coastal Storm Damage Mitigation Fund.

(a) Fund Established. – The Coastal Storm Damage Mitigation Fund is established as a special revenue fund. The Fund consists of General Fund appropriations, gifts, grants, devises, monies contributed by a non-State entity for a particular beach nourishment or damage mitigation project or group of projects, and any other revenues specifically allocated to the Fund by an act of the General Assembly.

(b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the State.

1 (c) Conditions on Funding. – Any project funded by revenue from the Fund must be
2 cost-shared with non-State dollars as follows:

3 (1) The cost share for dredging projects located, in whole or part, in a
4 development tier one area, as defined in G.S. 143B-437.08, shall be at least
5 one non-State dollar for every three dollars from the Fund.

6 (2) The cost share for dredging projects not located, in whole or part, in a
7 development tier one area shall be at least one non-State dollar for every two
8 dollars from the Fund.

9 (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
10 for a particular project or group of projects may make a written request to the Secretary that the
11 contribution be returned if the contribution has not been spent or encumbered within two years
12 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
13 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
14 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
15 subsection."

16
17 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

18 **SECTION 8.(a)** If any section or provision of this act is declared unconstitutional
19 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
20 than the part declared to be unconstitutional or invalid.

21 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it
22 becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 770
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H770-CSSB-27 [v.7]
06/20/2017 5:35:49 PM

Short Title: Amend Environmental Laws 3.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
The General Assembly of North Carolina enacts:

**REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND
STORAGE TANKS**

SECTION 1.(a) The Environmental Management Commission shall adopt temporary rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017. Notwithstanding G.S. 150B-21.1(d), the temporary rules shall remain in effect until the effective date of the permanent rule adopted to replace the temporary rule.

SECTION 1.(b) The Commission shall report regarding the status of the rule making required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

SHELLFISH ENTERPRISE AREAS

SECTION 2.(a) G.S. 113-201 is amended by adding a new subsection to read:

"(d) The Marine Fisheries Commission may adopt rules to establish Shellfish Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue nontransferrable leases within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to the State and be made available to other applicants."

SECTION 2.(b) G.S. 113-201.1 is amended by adding a new subdivision to read:

"(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

MARINE FISHERIES CLARIFYING CHANGES

SECTION 3.(a) G.S. 113-203 reads as rewritten:

"§ 113-203. Transplanting of oysters and clams.

...

(a2) It is unlawful to do any of the following:



* H 7 7 0 - C S S B - 2 7 *

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
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"(4) To provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway north of Beaufort Inlet and south of the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government."

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- (2) Repealed by Session Laws 1991, c. 621, s. 8.
- (3) Units of local government are encouraged to separate marketable plastics, glass, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses.
- (4) Notwithstanding G.S. 130A-291(b), units of local government shall not, by ordinance or otherwise, prohibit the disposal of construction and demolition debris in any sanitary landfill permitted for the disposal of construction and demolition debris, which landfill has a valid and operative franchise agreement and is otherwise properly permitted pursuant to G.S. 130A-294."

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1 (c) Conditions on Funding. – Any project funded by revenue from the Fund must be
2 cost-shared with non-State dollars as follows:

3 (1) The cost share for dredging projects located, in whole or part, in a
4 development tier one area, as defined in G.S. 143B-437.08, shall be at least
5 one non-State dollar for every three dollars from the Fund.

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7 development tier one area shall be at least one non-State dollar for every two
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14 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
15 subsection."

16
17 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

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19 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
20 than the part declared to be unconstitutional or invalid.

21 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it
22 becomes law.

Sanderson



**Senate Committee On Agriculture/Environment/Natural
Resources**

June 21, 2017 – Room 1027/1128 LB – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
<i>[Signature]</i>	<i>[Signature]</i>
Alexandra Farrell	SELC
Brooks Rainey Pearson	SELC
May Mable Ashm	SELC
Emma Meyer	SELC
Chris Proughman	MWC
David McGowan	MCPC
Nick Miller	DEG
Doug K...	NESTA
Gusar Vce	Tide Energy
A. [Signature]	WRC
Sett Heler	NRK
John [Signature]	<i>[Signature]</i>



[illegible]



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 22, 2017, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE
HB 770	Amend Environmental Laws 3.

SPONSOR
Representative K. Hall
Representative McElraft
Representative B. Turner
Representative Harrison

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, June 22, 2017

Senator Wells,
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 770 (CS#1)

Noncommercial USTs/Rule-Making Report.

Draft Number:	H770-PCS10389-SB-27
Sequential Referral:	Appropriations/Base Budget
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Bill Cook will handle HB 770



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

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 22, 2017 at 10:00 AM
Room 544 of the Legislative Office Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:00AM on June 22, 2017 in Room 544 of the Legislative Office Building. 12 members were present.


Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Larry Hancock, Terry Barnhardt and Linda Matthews and Pages Allison Jones, Mooresville, Cassidy Barker, Statesville, Matthew Barker and Mitchell Barker, Brown Summit, sponsored by Senator Berger; Edwin West, Wilmington, sponsored by Senator Lee; Alex Pardue, Burlington, sponsored by Senator Gunn and Nia Bowe, Raleigh, sponsored by Senator Blue.

HB 770 AMEND ENVIRONMENTAL LAWS 3 (Reps. K. Hall, McElraft, B. Turner, Harrison)

Senator Cook presented the amendment. House Bill 770 is an act to amend various environmental laws. Senator Cook and Jeff Hudson, Legislative Analysis, answered questions from Senators Jeff Jackson and Bryant. Senator Rabin spoke in favor of the bill. Senator Wade motions for a favorable report – unfavorable to the bill but favorable to the Committee Substitute.

There being no further business, the meeting adjourned at 10:08 AM.



Senator Andy Wells, Chair Presiding



Linda Went, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

4

HOUSE BILL 770
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/26/17
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/22/17

Short Title: Amend Environmental Laws 3.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
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STORAGE TANKS**

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SECTION 1.(b) The Commission shall report regarding the status of the rule making required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

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...
(a2) It is unlawful to do any of the following:



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- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

SECTION 3.(b) G.S. 113-168.4(b) reads as rewritten:

"(b) Except as otherwise provided in this section, it is unlawful for any person licensed under this Article to sell fish taken outside the territorial waters of the State or to sell fish taken from coastal fishing waters. A person licensed under this Article may sell fish taken outside the territorial waters of the State or sell fish taken from coastal fishing waters under any of the following circumstances:

- (1) The sale is to a fish dealer licensed under G.S. 113-169.3.
- (2) The sale is to the public and the seller is a licensed fish dealer under G.S. 113-169.3.
- (3) The sale is of ~~oysters or clams from fish reared in~~ a hatchery or aquaculture operation to the holder of an Aquaculture Operation Permit, an Under Dock Culture Permit, or a shellfish cultivation lease for further grow out."

RIVER HERRING FISHERIES MANAGEMENT

SECTION 4. The Division of Marine Fisheries shall review its Fishery Management Plan for river herring (blueback herring, *Alosa aestivalis*, and alewife, *Alosa pseudoharengus*) and report no later than December 15, 2017, to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources regarding the continuing validity and scientific basis for the continued status of both species as "overfished." If the Division does not have an adequate scientific basis to review the status of both species, then the report should include cost estimates for the restoration of spawning and nursery area surveys and age composition work for all coastal streams within the State that historically contained significant river herring fisheries.

STATE PARTICIPATION IN SITING OF ATLANTIC INTRACOASTAL WATERWAY DREDGED MATERIAL DISPOSAL EASEMENTS

SECTION 5.(a) The Division of Water Resources of the Department of Environmental Quality and the State Property Office are authorized to negotiate with appropriate agencies of the federal government an agreement for the State to assume responsibility for acquiring dredged material easement sites appropriate for maintenance dredging of the Atlantic Intracoastal Waterway between Beaufort Inlet and the border with the

Commonwealth of Virginia in exchange for the reduction in size and possible change in location of dredged material disposal easement sites currently held by the federal government. The agreement shall provide for the federal government to relinquish certain dredged material disposal easements that are excess to maintenance project needs in exchange for the acquisition and furnishing to the federal government other easements that are sited and permitted by the Division of Coastal Management and acquired by the State Property Office under its powers of condemnation or otherwise using such funds as may be appropriated by the General Assembly from the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund established under Part 8B of Article 21 of Chapter 143 of the General Statutes for that purpose.

SECTION 5.(b) G.S. 143-215.73F(b) is amended by adding a new subdivision to read:

"(4) To provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway north of Beaufort Inlet and south of the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government."

PRESERVE MUNICIPAL SOLID WASTE CAPACITY

SECTION 6. G.S. 130A-309.09B(a) reads as rewritten:

"(a) Each unit of local government shall establish and maintain a solid waste reduction program. The following requirements shall apply:

- (1) Demolition debris consisting of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete, or similar nonhazardous material may be used as fill and need not be disposed of in a permitted landfill or solid waste disposal facility, provided that demolition debris may not be placed in the waters of the State or at or below the seasonal high water table.
- (2) Repealed by Session Laws 1991, c. 621, s. 8.
- (3) Units of local government are encouraged to separate marketable plastics, glass, metal, and all grades of paper for recycling prior to final disposal and are further encouraged to recycle yard trash and other organic solid waste into compost available for agricultural and other acceptable uses.
- (4) Notwithstanding G.S. 130A-291(b), units of local government shall not, by ordinance or otherwise, prohibit the disposal of construction and demolition debris in any sanitary landfill permitted for the disposal of construction and demolition debris, which landfill has a valid and operative franchise agreement and is otherwise properly permitted pursuant to G.S. 130A-294."

ESTABLISH COASTAL STORM DAMAGE MITIGATION FUND

SECTION 7. Article 21 of Chapter 143 of the General Statutes is amended by adding a new Part to read:

"Part 8D. Coastal Storm Damage Mitigation Fund.

"§ 143-215.73M. Coastal Storm Damage Mitigation Fund.

(a) Fund Established. – The Coastal Storm Damage Mitigation Fund is established as a special revenue fund. The Fund consists of General Fund appropriations, gifts, grants, devises, monies contributed by a non-State entity for a particular beach nourishment or damage mitigation project or group of projects, and any other revenues specifically allocated to the Fund by an act of the General Assembly.

(b) Uses of the Fund. – Revenue credited to the Fund may only be used for costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the State.

1 (c) Conditions on Funding. – Any project funded by revenue from the Fund must be
2 cost-shared with non-State dollars as follows:

3 (1) The cost share for dredging projects located, in whole or part, in a
4 development tier one area, as defined in G.S. 143B-437.08, shall be at least
5 one non-State dollar for every three dollars from the Fund.

6 (2) The cost share for dredging projects not located, in whole or part, in a
7 development tier one area shall be at least one non-State dollar for every two
8 dollars from the Fund.

9 (d) Return of Non-State Entity Funds. – Non-State entities that contribute to the Fund
10 for a particular project or group of projects may make a written request to the Secretary that the
11 contribution be returned if the contribution has not been spent or encumbered within two years
12 of receipt of the contribution by the Fund. If the written request is made prior to the funds being
13 spent or encumbered, the Secretary shall return the funds to the entity within 30 days after the
14 later of (i) receiving the request or (ii) the expiration of the two-year period described by this
15 subsection."

16
17 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

18 **SECTION 8.(a)** If any section or provision of this act is declared unconstitutional
19 or invalid by the courts, it does not affect the validity of this act as a whole or any part other
20 than the part declared to be unconstitutional or invalid.

21 **SECTION 8.(b)** Except as otherwise provided, this act is effective when it
22 becomes law.



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 770**

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

H770-ASB-57 [v.2]

Page 1 of 1

Amends Title [NO]
H770-CSSB-27 [v.7]

Date _____, 2017

Senator Cook

- 1 moves to amend the bill on page 2, line 47,
- 2 by deleting "Coastal Management" and replacing it with "Water Resources".

SIGNED

Bill Cook

Amendment Sponsor

SIGNED

[Signature]

Committee Chair if Senate Committee Amendment

ADOPTED _____

FAILED _____

TABLED _____



* H 7 7 0 - A S B - 5 7 - V - 2 *

Bill Cook

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 770
Committee Substitute Favorable 4/20/17
Third Edition Engrossed 4/26/17
PROPOSED SENATE COMMITTEE SUBSTITUTE H770-PCS10389-SB-27

Short Title: Amend Environmental Laws 3.

(Public)

Sponsors:

Referred to:

April 13, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS.
The General Assembly of North Carolina enacts:

**REPORT ON RULES FOR REMEDIATION OF CERTAIN UNDERGROUND
STORAGE TANKS**

SECTION 1.(a) The Environmental Management Commission shall adopt temporary rules implementing Section 14.16B of S.L. 2015-241 no later than October 1, 2017. Notwithstanding G.S. 150B-21.1(d), the temporary rules shall remain in effect until the effective date of the permanent rule adopted to replace the temporary rule.

SECTION 1.(b) The Commission shall report regarding the status of the rule making required by this act and by Section 14.16B of S.L. 2015-241 to the Fiscal Research Division and the chairs of the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than December 31, 2017.

SHELLFISH ENTERPRISE AREAS

SECTION 2.(a) G.S. 113-201 is amended by adding a new subsection to read:
"(d) The Marine Fisheries Commission may adopt rules to establish Shellfish Aquaculture Enterprise Areas to facilitate shellfish aquaculture opportunities through advanced siting and preapprovals from relevant federal and State agencies. The Secretary shall only issue nontransferrable leases within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to the State and be made available to other applicants."

SECTION 2.(b) G.S. 113-201.1 is amended by adding a new subdivision to read:
"(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

MARINE FISHERIES CLARIFYING CHANGES

SECTION 3.(a) G.S. 113-203 reads as rewritten:
"§ 113-203. Transplanting of oysters and clams.

...
(a2) It is unlawful to do any of the following:



- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

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[illegible]





Senate Committee On Agriculture/Environment/Natural Res

June 22, 2017 – Room 544 – 10:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Dave Jones	SA
Phil Carter	WT
Finn Henry	NCPM
Long Hunter	sub
Rob Lamm	RLA
W. Graham Culp	PPAD
Self Peter	NCR
John Carr	NC
J Goodman	CCC
David McGowan	NCR
Sarah Collins	NCLM
Lan Pe	MWC
Daniel Radford	NCFB
Martney Smith	NCFB
Mike Parker	NCFB
Taz Turner	Dale
Susan Vick	Dale



Agriculture/Environment/Natural Resources Committee

2017-2018 SESSION

<u>Co-Chairmen</u>	<u>Assistant</u>	<u>Telephone</u>	<u>Room Number</u>
Sen. Bill Cook	Jordan Hennessey	(919) 715-8293	1026 LB
Sen. Norman Sanderson	Kathy Voss	(919) 733-5706	1127 LB
Sen. Andy Wells	Linda Wente	(919) 733-5876	1028 LB
Members:			
Sen. John Alexander	Jessica Daigler-Walls	(919) 733-5850	625 LOB
Sen. Dan Barrett	Judy Edwards	(919) 715-0690	310 LOB
Sen. Danny Britt, Jr.	Cindy Davis	(919) 733-5651	2117 LB
Sen. Jay Chaudhuri	Ian Shannon	(919) 715-6400	1121 LB
Sen. Cathy Dunn	Judy Chriscoe	(919) 733-5665	2113 LB
Sen. Toby Fitch, Jr.	Jacqueta Rascoe	(919) 733-5878	206C LOB
Sen. Brent Jackson	Alexander Fagg	(919) 733-5705	2022 LB
Sen. Jeff Jackson	Dylan Arant	(919) 715-8331	1104 LB
Sen. Tom McInnis	Libby Spain	(919) 733-5953	620 LOB
Sen. Wesley Meredith	Debbie Lown	(919) 733-5776	314 LOB
Sen. Paul Newton	Justus Cochran	(919) 733-7223	2111 LB
Sen. Ronald J. Rabin	Chandra Reed	(919) 733-5748	411 LOB
Sen. Erica D. Smith	Kelby Hicks	(919) 715-3040	1118 LB
Sen. Joyce Waddell	Jyrita Moore	(919) 733-5650	1113 LB
Sen. Trudy Wade	Kathy Hartsell	(919) 733-5856	525 LOB
Sen. Mike Woodard	Carol Resar	(919) 733-4809	518 LOB
Staff:			
Jeff Hudson	Legislative Analysis	(919) 733-2578	545 LOB
Jennifer McGinnis	Legislative Analysis	(919) 733-2578	545 LOB
Kyle Evans	Legislative Analysis	(919) 733-2578	545 LOB
Chris Saunders	Legislative Analysis	(919) 733-2578	545 LOB
Mariah Matheson	Legislative Analysis	(919) 733-2578	545 LOB



North Carolina General Assembly
Through Senate Committee on
Agriculture/Environment/Natural Resources

2017-2018 Biennium
Leg. Day: H-155/S-150

Date: 08/06/2018
Time: 4:28:16 PM

Bill	Introducer	Short Title		Latest Action	Date In	Date Out
<u>H 56</u>	McElraft	Amend Environmental Laws.	*R	Ch. SL 2017-209	05/22/2017	05/26/2017
<u>H 56</u>	McElraft	Amend Environmental Laws.	*R	Ch. SL 2017-209	05/26/2017	05/31/2017
<u>H 189</u>	Davis	Water Safety Act.	*H	Ref To Com On House Select Committee on North Carolina River Quality	02/07/2018	02/07/2018
<u>H 218</u>	Turner	Prohibit Hunting From ROW/Buncombe County.	*S	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate	05/23/2017	
<u>H 272</u>	Zachary	Fox and Coyote Trapping.	*R	Ch. SL 2017-73	05/16/2017	06/21/2017
<u>H 275</u>	Conrad	No Stormwater Fees on Taxiways or Runways.	*R	Ch. SL 2017-132	05/16/2017	05/18/2017
<u>H 361</u>	Lewis	Support Shellfish Industry.	*SA	Conf Report Adopted	05/29/2018	06/06/2018
<u>H 402</u>	McElraft	Limit Env. Liability for Certain Recyclers.	R	Ch. SL 2017-163	05/16/2017	05/18/2017
<u>H 467</u>	Dixon	Agriculture and Forestry Nuisance Remedies.	*R	Ch. SL 2017-11	04/24/2017	04/25/2017
<u>H 576</u>	Dixon	Allow Aerosolization of Leachate.	*H	Re-ref Com On Rules, Calendar, and Operations of the House	05/17/2017	05/31/2017
<u>H 637</u>	Hall	Clarify Regional Water and Sewer Funds.	R	Ch. SL 2017-17	05/08/2017	05/09/2017
<u>H 770</u>	Hall	Various Clarifying Changes.	*R	Ch. SL 2017-206	06/08/2017	06/22/2017
<u>H 799</u>	Bradford	Utility Billing by Lessors.	*R	Ch. SL 2017-172	05/17/2017	05/24/2017
<u>S 107</u>	Wells	Streamline Dam Removal.	*R	Ch. SL 2017-145	03/16/2017	04/20/2017
<u>S 124</u>	Davis	LEO Managed CBD Oil Drop Box.	*R	Ch. SL 2018-36	02/23/2017	03/02/2017
<u>S 131</u>	Wells	Regulatory Reform Act of 2016-2017.	*R	Ch. SL 2017-10	02/27/2017	03/02/2017
<u>S 163</u>	Wade	Solid Waste Amendments.	S	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Rules and Operations of the Senate	03/02/2017	
<u>S 196</u>	Wade	Veterinary Practice Omnibus.	R	Ch. SL 2017-146	03/21/2017	04/19/2017
<u>S 205</u>	Cook	Resolution to Allow SAV Oyster Leasing.	R	Ch. Res 2017-10	03/23/2017	04/19/2017



<u>S 217</u>	McInnis	Richmond/Right-of-Way Safety.	*R	Ch. SL 2017-77	03/16/2017	03/22/2017
<u>S 217</u>	McInnis	Richmond/Right-of-Way Safety.	*R	Ch. SL 2017-77	03/22/2017	04/19/2017
<u>S 232</u>	Jackson	Septic Tank Tax Fairness Act.	S	Re-ref to Finance. If fav, re-ref to Rules and Operations of the Senate	03/16/2017	07/04/1776
<u>S 244</u>	Jackson	Coastal Crescent Trail/State Parks System.	R	Ch. SL 2017-66	03/16/2017	04/19/2017
<u>S 249</u>	McInnis	Coyote Bounty Pilot Program.	R	Ch. SL 2017-46	03/22/2017	04/25/2017
<u>S 370</u>	Rabon	South Atlantic Federal Fisheries Resources.	S	Adopted	04/10/2017	04/19/2017
<u>S 371</u>	Brock	Building Code Regulatory Reform.	S	Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Commerce and	04/10/2017	



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, January 10, 2018

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

FAVORABLE

SR 699

Confirm Franklin R. Allen/Bd of Ag.
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

TOTAL REPORTED: 1

Senator Brent Jackson will handle SR 699



★ C M R 6 5 7 - V - 1 ★

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, January 10, 2018, 1:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Sergeant-at-arms

Presentations

Consider recommendation on confirmation of Mr. Franklin Allen, State Board of Agriculture nominee.

Adjournment



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, January 10, 2018 at 1:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 1:02 p.m. on January 10, 2018 in Room 1027/1128 of the Legislative Building. 12 members were present.

Senator Bill Cook, Chair, presided.

Sen Cook: Welcome. Let's recognize our Sergeant-at-Arms before getting started.

Consider recommendation on confirmation of Mr. Franklin Allen, State Board of Agriculture nominee.

Sen. B. Jackson: We would like to consider the Senate Resolution providing for the confirmation of Franklin Ray Allen to the Board of Agriculture. I recommend Ray to this position. He has been nominated by Gov. Roy Cooper to fill the vacant Forestry Representative position. Upon meeting with Ray we were very positive with what he had to say and we think he'd be a great nomination.

Sen. Cook: Mr. Allen could you come up?

Franklin Allen: I appreciate the opportunity to be here today. I've been in the industry for 37 years and involved in the forestry industry which considers all aspects of the industry from lumber to hunting and fishing that a good and healthy forest provide. It would be an honor for me to be an advocate for forestry from the landowner to the mills. I welcome any questions.

Sen. Truly: Have you had any interactions with the Board of Ag that you would like to serve on?

Franklin Allen: No ma'am but we do deal with the forest service regularly and the board regulates some of the logging activities we do so I have been involved with them in that and when I was a volunteer firefighter. I can tell you it's a very good group that serves the state well from everything to water quality to making sure that our companies adhere to those policies.

Sen. Truly: Is there a particular interest you have that got you wanting to do this?


Franklin Allen: No ma'am, people in the lumber and wood business are just farmers with a lot of patience.

Motion to adopt the resolution:

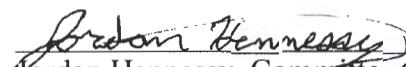
Aye: Unanimous Nay: None

Motion carries

The meeting adjourned at 1:28 p.m



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

FILED SENATE
Jan 10, 2018
S.R. 699
PRINCIPAL CLERK

S

D

SENATE SIMPLE RESOLUTION DRSR45506-LG-139 (01/05)

Sponsors: Senator B. Jackson (Primary Sponsor).

Referred to:

1 A SENATE RESOLUTION PROVIDING FOR THE CONFIRMATION OF FRANKLIN R.
2 ALLEN TO THE BOARD OF AGRICULTURE.

3 Whereas, the provisions of G.S. 106-2 require that appointees to the Board of
4 Agriculture be confirmed by the North Carolina Senate; and

5 Whereas, a vacancy occurred on August 22, 2017, when Tommy Burleson resigned;
6 and

7 Whereas, the Governor has presented to the presiding officer of the Senate the name
8 of his appointee; Now, therefore,

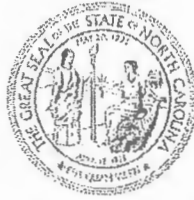
9 Be it resolved by the Senate:

10 **SECTION 1.** The appointment of Franklin R. Allen of Montgomery County as the
11 forestry representative to the Board of Agriculture for a term to expire September 1, 2019, is
12 confirmed.

13 **SECTION 2.** This resolution is effective upon adoption.







ROY COOPER
GOVERNOR

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

November 6, 2017

The Honorable Philip E. Berger
Senate President Pro Tempore
Legislative Office Building, Room 2007
Raleigh, North Carolina 27601-2808

Dear Senator Berger:

Pursuant to North Carolina General Statute §106-2, I am pleased to nominate the following individual to serve on the North Carolina State Board of Agriculture and hereby submit his name for confirmation by the North Carolina Senate:

- Mr. Franklin R. Allen of Montgomery County, Forestry Representative

I am grateful for his willingness to assume this important responsibility for the State of North Carolina. Attached is their biographical information for your review. Please feel free to call my staff for any additional information.

Sincerely,

A handwritten signature in black ink that reads "Roy Cooper".
Roy Cooper

cc: The Honorable Dan Forest
The Honorable Dan Blue
The Honorable Steve Troxler
Ms. Sarah Lang, Senate Principal Clerk

A handwritten signature in black ink, followed by the date "11-6-17" and the time "@ 12:30p.m." written below it.
11-6-17
@ 12:30p.m.



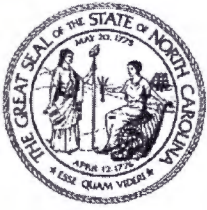
Franklin Allen

Franklin "Ray" Allen is President of Uwharrie Lumber Co, a hardwood lumber manufacturer. Allen is a lifelong resident of Montgomery County and has been involved in the lumber industry since 1983.

He graduated with a B.S. in Business from Wake Forest University in 1981 where he met and married his wife Breon. They have three adult children, John, Duncan and Alexandra.

Allen has had an extended relationship with the North Carolina Forestry Association, serving as President and Chairman of the Board (2014-2015). He is a member of the Appalachian Lumbermen's Club. Ray has always been actively involved in serving his community. He served as a volunteer fireman for 25 years, is an Elder at Star Presbyterian Church, is a Board Member of Fidelity Bank, has served as member and chairman of the Montgomery County Planning Board, and currently chairs the First Health Montgomery Memorial Hospital Board.





NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST
CONTACT INFORMATION

This contact information page will not be available on the
Commission's website, but it is a public document.

919-814-3600

www.ncsbe.gov/Ethics/SEI

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Franklin	R	Allen	
MAILING ADDRESS				
Address		City	State	ZIP
PO Box 736		Biscoe	NC	27209-0000
DAYTIME PHONE NUMBER		ALTERNATE PHONE NUMBER		
910-572-3731		910-571-1747 .		
E-MAIL ADDRESS				
frallen.ulc@earthlink.net				
HOME ADDRESS:				
PROVIDE YOUR HOME ADDRESS ONLY IF YOU ARE HOLDING OR SEEKING AN ELECTED OFFICE WITH A RESIDENCY REQUIREMENT. This requirement does not apply to Judicial Officers. Judicial officer means Justice or Judge of the General Court of Justice, District Attorney, or Clerk of Court, or any individual elected or appointed to any of these positions prior to taking office. <input type="checkbox"/> Same As Mailing Address				
Address		City	State	ZIP
141 Flint Ridge Trail		New London	NC	28127-0000



NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST

919-814-3600

www.ncsbe.gov/Ethics/SEI

COMPLETE THIS FORM AND MAIL SIGNED, ORIGINAL TO
STATE ETHICS COMMISSION, 1324 MAIL SERVICE CENTER, RALEIGH, NC 27699-1324

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Franklin	R	Allen	
CURRENT EMPLOYER			JOB TITLE	
Uwharrie Lumber Co			President	
NATURE OR TYPE OF BUSINESS				
Hardwood Lumber				
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify Agency)		BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)		
		Agriculture, Board of;		
JUDICIAL OFFICER (Specify Office)		LEGISLATOR (Specify House or Senate)		

A. Do other immediate family members reside in your household?

☒ Yes ☐ No

When used throughout this form, the term **Immediate family** includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) **who reside in your household.**

List the full name of **all adults** and **emancipated minors** in your household. A minor is a child under 18 years old. Minors are emancipated by marriage, enlistment in the US military, or court order for emancipation.

FULL NAME OF ADULTS & EMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
Breon Golubin Allen	Wife	New south Realty	Realtor	Real estate sales

B. List **ONLY** the initials of all **unemancipated minors** in your household below. A minor is a child under 18 years old.

Note: You must list the full name of each minor child on the Confidential Form available at the end of this document.

INITIALS FOR UNEMANCIPATED CHILDREN	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
None	None	None	None	None

PROPERTY INTERESTS

1. As of December 31, 2016, did you, your spouse, or members of your immediate family:

A. Have an ownership interest in North Carolina real estate (including your residence) with a market value of \$10,000 or more?

☒ Yes ☐ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County
Franklin Ray&Breon G. Allen	100	New london	Montgomery
John Fred Allen& others	33.3	Biscoe	Montgomery
Triple A Enterprises	33.3	Biscoe/thickety creek	Montgomery
Franklin Ray&Breon G. Allen	100	Mt.gilead	Montgomery
Uwharrie Lumber	52	Troy	Montgomery
Uwharrie Lumber	52	Norman	Richmond
Uwharrie Lumber	52	Robbins	Moore
Tram Lumber LLC	52	Seagrove	Randolph
Allen Capital LLC	66	Star	Moore
Allen Capital LLC	66	Biscoe	Montgomery
Allen Real Estate Investment LLC	100	Pinehurst	Moore

B. Lease or rent real estate or personal property to or from the State of North Carolina with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2015 or 2016, did you, your spouse, or members of your immediate family sell to or buy from the State of North Carolina personal property with a market value of \$10,000 or more?

☒ Yes ☐ No

Name of Purchaser	Name of Seller	Type of Property
Nc dot	Allen capital LLC	Right of way

FINANCIAL INTERESTS

3. As of December 31, 2016, did you, your spouse, or members of your immediate family own any of the following financial interests valued at \$10,000 or more? LIST EACH COMPANY INDIVIDUALLY

A. Stock in a publicly owned company?

☐ Yes ☒ No

- Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if: (i) the fund is publicly traded or its assets are widely diversified; and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)

B. Stock Options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations)?

☐ Yes ☒ No If "No", proceed to question 4.

Owner of Interest	Name of Company or Business Entity

C (1). For each non-publicly owned company or business entity (the "primary company") identified in question 3.C above, please list the names of *any other companies or business entities* in which the primary company owns securities or equity interests valued at over \$10,000, *if known*.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
---	--

☐ None or Not Known

C (2). If you know that any company or business entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts *with the State of North Carolina*, or is *regulated by the State*, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
------------------------------------	---

☐ None or Not Known

4. As of December 31, 2016, were you, your spouse, or members of your immediate family the beneficiaries of a vested trust with a value of \$10,000 or more that was created, established, or controlled by you?

Do not list assets held in blind trusts. See 2017 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2016, did you, your spouse, or members of your immediate family have liabilities of \$10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☒ Yes ☐ No

Name of Debtor (You, Spouse, Immediate Family Member)	Type of Creditor (Commercial Bank, Credit Union, Individual, etc.)
Fidelity Bank	Commercial Bank

6. List each source of income (not specific amounts) of more than \$5,000 received by you, your spouse, or members of your immediate family during 2016. Include salary, wages, state/local government retirement, professional fees, honoraria, interest, dividends, rental income, business income, and other types of income required to be reported on your State and federal tax returns.

Do not include income received from the following sources:

- ▶ Capital gains
- ▶ Federal government retirement
- ▶ Military retirement
- ▶ Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
<input type="checkbox"/> I had no reportable income over \$5,000 in 2016.			
Franklin Ray Allen	Uwharrie Lumber	Hardwood sawmill	Salary/Business income
Franklin Ray Allen	Fidelity Bank	Financial institution	Directors Fee
Breon Allen	Tram Lumber LLC	Hardwood Sawmill	Salary
Breon Allen	New South Realty	Real estate	Sales commission
Franklin Ray Allen	Tram Lumber Llc	Hardwood Sawmill	Business income
Breon Allen	Allen Capital Llc	Real Estate	Rental income
Franklin Ray & Breon Allen	Pinehurst manor	Real estate	Rental
Franklin Ray & Breon G Allen	Triple A Enterprises	Real Estate	Interest
Franklin Ray & Breon G Allen	Uwharrie Lumber Co	Hardwood Sawmill	Interest
John F Allen II	Cambridge Merchantile	Foreign Currency Exchange	Salary
Duncan McLeod Allen	Vanderbilt Healthcare	Healthcare	Salary
Alexandra R Allen	Uwharrie Lumber	Hardwood Sawmill	Salary

PROFESSIONAL AND CIVIC RELATIONSHIPS

7(a). During 2016, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

☒ Yes ☐ No **If "No", proceed to question 8.**

- ▶ Do not list State boards or entities, or entities created by a political subdivision of the State.
- ▶ Do not list organizations of which you are a mere member.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization
Franklin Ray Allen	Chair	Firsthealth Montgomery Memorial	Community Hospital

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, please provide a brief description of the nature of that business, if known or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business or State Funding
---	--

☐ None or Not Known

Firsthealth Montgomery Memorial	Performs routine healthcare visits for inmates, state funding for medicaid
---------------------------------	--

Please answer the following question as it pertains to the following board/agency:

Agriculture, Board of

8. During 2016, were you, your spouse, or members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

☒ Yes ☐ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to those offices.

► Do not list organizations of which you are only a member (not serving in a leadership role).

Name of Person	Name of Society, Organization or Advocacy Group	Leadership Position (Director, Officer, Board Member)
Franklin Ray Allen	North Carolina Forestry Assoc	Board Member/Past Chair

9(a). List the name of each company or business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2016.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input type="checkbox"/> No Business Associations			
Franklin Ray Allen	Self	Uwharrie Lumber	President
Franklin Ray Allen	Self	Tram Lumber LLC	Member Manager
Franklin Ray Allen	Self	Triple A Enterprises	President
Franklin Ray Allen	Self	Montgomery Enterprises	President
Franklin Ray Allen	Self	The Fidelity Bank	Director
Breon G Allen	Spouse	Allen Capital LLC	Member Manager
Breon G Allen	Spouse	New South Realty	Employee
Breon G Allen	Spouse	Uwharrie Lumber Co	Vice President
Breon G Allen	Spouse	Tram Lumber LLC	Employee
Breon G Allen	Spouse	Allen Real Estate Investment LLC	Member Manager
John F Allen II	Son	Cambridge Mercantile	Employee
Duncan M Allen	Son	Vanderbilt Healthcare	Employee
Alexandra R Allen	Daughter	Uwharrie Lumber Co	Employee
Breon G Allen	Spouse	JDAD Enterprises	Member Manager

9(b). If you know that any company or business entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2016, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> Not applicable (No entities listed on #9a) <input type="checkbox"/> No relationship / Not known	
Uwharrie Lumber	Regulated by OSHA, NCDENR, NC Forest Service
Tram Lumber LLC	Regulated by OSHA, NCDENR, NC Forest Service
Allen Capital LLC	FDP Funding
Montgomery Enterprises	Regulated by NC Licensing Board for General Contractors

10. Are you a practicing attorney?

☐ Yes ☒ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than \$10,000 during 2016.

- | | | | |
|---|---|---|-----------------------------------|
| <input type="checkbox"/> Administrative | <input type="checkbox"/> Admiralty | <input type="checkbox"/> Corporate | <input type="checkbox"/> Criminal |
| <input type="checkbox"/> Decedent's Estates | <input type="checkbox"/> Environmental | <input type="checkbox"/> Insurance | <input type="checkbox"/> Labor |
| <input type="checkbox"/> Local Government | <input type="checkbox"/> Real Property | <input type="checkbox"/> Securities | <input type="checkbox"/> Tax |
| <input type="checkbox"/> Tort litigation (including negligence) | <input type="checkbox"/> Utilities Regulation | <input type="checkbox"/> Other category not listed. | |

11. During 2016, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over \$10,000?

☐ Yes ☒ No

Type of Business	Nature of Services Rendered

Please answer the following question as it pertains to the following board/agency:

Agriculture, Board of

12. Are you or your employer, your spouse or members of your immediate family, or their employer currently:

- Licensed by the State board or employing entity with which you are or will be associated **or**
- Regulated by the State board or employing entity with which you are or will be associated **or**
- Have a business relationship with the State board or employing entity with which you are or will be associated?

☒ Yes ☐ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer ("judicial officer" is defined in the SEI Helpful Tips) or you are filing as an appointee to those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)
Franklin Ray Allen	Uwharrie Lumber Co	Regulatory
Franklin Ray Allen	Tram Lumber LLC	Regulatory

13. Are you, your spouse, or a member of your immediate family currently registered as a lobbyist or lobbyist principal or were you registered as such within the 12 months preceding your filing of this form?

☐ Yes ☒ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration

OTHER DISCLOSURES

14. During any calendar quarter in 2016 (but only the time period after you were appointed, employed or filed or were nominated as a candidate), did you

- receive any gift(s) exceeding \$200 per quarter from a person or group of persons acting together, and
- when both you and those person(s) were outside North Carolina at the time you accepted the gift(s), and
- the gift(s) were given under circumstances that would lead a reasonable person to conclude that they were given for lobbying?

☐ Yes ☒ No

- ▶ Do not report gifts given by members of your extended family.
- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Agriculture, Board of

15. During 2016 (but only the time period after you were appointed, employed, or filed or were nominated as a candidate) did you

- accepted a "scholarship" exceeding \$200 from a person or group of persons acting together and
- those person(s) were outside North Carolina and
- the scholarship was related to your public position? A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☒ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."
- ▶ Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member or participant or an affiliate of that organization.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Agriculture, Board of

16. Were you appointed or are you being considered for an appointment to a covered board by the **Governor** or another Council of State member?

Council of State members are:

- Governor
- Lt. Governor
- Secretary of State
- State Auditor
- State Treasurer
- Superintendent of Public Instruction
- Attorney General
- Commissioner of Agriculture
- Commissioner of Labor
- Commissioner of Insurance

☒ Yes ☐ No

If "Yes", list all contributions you (NOT immediate family members) made during 2016 with a cumulative total of more than \$1,000 to the Governor or other Council of State member who appointed you.

- Contributions are defined in N.C.G.S. 163-278.6(6) and include, but are not limited to, "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
<input checked="" type="checkbox"/> No contribution(s) with a cumulative total of more than \$1,000		

Please answer the following question as it pertains to the following board/agency:

Agriculture, Board of

17. Are you an appointee or prospective appointee to:

- a. the head of a principal state department (e.g. cabinet secretary) appointed by the Governor;
or
b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge;
or
c. a member of any of the following boards:
- ABC Commission
 - Coastal Resources Commission
 - State Board of Education
 - State Board of Elections
 - Division of Employment Security
 - Environmental Management Commission
 - Industrial Commission
 - Human Resources Commission
 - Rules Review Commission
 - Board of Transportation
 - UNC Board of Governors
 - Utilities Commission
 - Wildlife Resources Commission

☐ Yes ☒ No

If "No", proceed to question 18.

d. If so, were you appointed or are you being considered for appointment to that public position by a Council of State member? Council of State members are listed in question 16.

☐ Yes ☐ No

If "No", proceed to question 18.

e. If so, you must indicate whether during 2016 you (not immediate family members) engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you to your public position:

☐ Yes ☐ No

i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee? Contributions are defined in question 16.

ii. Hosted a fundraiser at your residence or place of business?

☐ Yes ☐ No

iii. Volunteered for campaign-related activities, which include, but are not limited to, phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?

☐ Yes ☐ No

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon of innocence; or (ii) an order of expungement regarding that conviction?

☐ Yes ☒ No

Offense	Date of Conviction	County of Conviction	State of Conviction

19. Are you aware of any other information that *you believe* may assist the State Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide such information below.

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

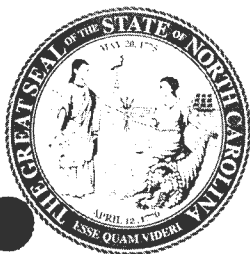
☐ I Agree

Signature

Date

Franklin R Allen

Printed Name



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 814-0700
Fax: (919) 715-0135

October 11, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

**Re: Evaluation of Statement of Economic Interest Filed By Franklin R. Allen
Prospective Appointee – Board of Agriculture**

Dear Governor Cooper:

Our office is in receipt of **Mr. Franklin R. Allen's** 2017 Statement of Economic Interest as a prospective appointee to the **Board of Agriculture**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Board of Agriculture (Board) acts as an adviser to the Commissioner of Agriculture regarding the improvement, promotion, and regulation of North Carolina agriculture. Its members, appointed by the Governor, represent various agricultural interests of the State. The Board is a policy- and rule-making body that adopts regulations for many of the programs administered by the North Carolina Department of Agriculture and Consumer Services, including rules relating to the sale of commercial fertilizers, feeds, pet foods, seeds, and food products, and the control of diseases affecting livestock and insect infestations, imposition of transportation restrictions and quarantines. The Board also establishes fees for the State Fair and for the use of State Fair lands.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mr. Allen will fill the role of individual actively involved in forestry on the Board. He is President of Uwharrie Lumber Company and he owns threshold amounts of interest in Tram Lumber, LLC. As such, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties should these entities listed above come before the Board for official action.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

The Honorable Roy A. Cooper, III
October 11, 2017
Page 2 of 2

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,

A handwritten signature in cursive script that reads "Lisa S. Johnson".

Lisa Johnson, Paralegal
NC Board of Elections & Ethics Enforcement

cc: Mr. Franklin R. Allen

Attachment: Ethics Education Flyer



NORTH CAROLINA STATE BOARD OF ELECTIONS AND
ETHICS ENFORCEMENT

2018 STATEMENT OF ECONOMIC INTEREST
NO CHANGE FORM

Review your LAST SEI LONG Form

CONTACT INFORMATION

This contact information page will not be available on the
Commission's website, but it is a public document.

919-814-3600

www.ncsbe.gov/Ethics/SEI

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Franklin	Ray	Allen	
MAILING ADDRESS				
Address		City	State	ZIP
PO Box 736		Biscoe	NC	27209-0000
DAYTIME PHONE NUMBER		ALTERNATE PHONE NUMBER		
910-572-3731		910-571-1747		
E-MAIL ADDRESS				
frallen.ulc@earthlink.net				
HOME ADDRESS: PROVIDE YOUR HOME ADDRESS ONLY IF YOU ARE HOLDING OR SEEKING AN ELECTED OFFICE WITH A RESIDENCY REQUIREMENT. This requirement does not apply to Judicial Officers. Judicial officer means Justice or Judge of the General Court of Justice, District Attorney, or Clerk of Court, or any individual elected or appointed to any of these positions prior to taking office. <input type="checkbox"/> Same As Mailing Address				
Address		City	State	ZIP
N/a			NC	-



NORTH CAROLINA STATE ETHICS COMMISSION
2018 STATEMENT OF ECONOMIC INTEREST
NO CHANGE FORM

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Franklin	Ray	Allen	
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify the agency for which you work or are being considered)			BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)	
			Agriculture, Board of;	
JUDICIAL OFFICER (Specify the office you hold)			LEGISLATOR (Specify House or Senate)	

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

I hereby affirm that I have reviewed my most recently filed 2017 Statement of Economic Interest and that as of December 31, 2017, my responses continue to be true, correct, and complete to the best of my knowledge and belief.

☒

I Agree. It is my intention that this check box constitutes my electronic signature. By checking this box I certify that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

Filed Electronically

Signature

1/9/2018

Date

Franklin Ray Allen

Printed Name





**Senate Committee on Agriculture/Natural/
Economic Resources**

1/10/2018

1:00 PM / Room: 1027

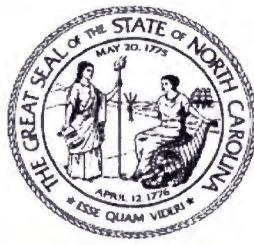
Senate Sergeant at Arms:

John Enloe

Larry Hancock

Becky Myrick





Senate Committee on Agriculture/Natural/ Economic Resources

1/10/2018; 1:00 pm; Room - 1027

PLEASE PRINT

NAME	FIRM OR AGENCY
Laura K. Tan	NCDACS
Tina Hlabse	NCDACS
Sarah Gudge	RENU
Jillian Totman	MWC
Nathan Baruch	PPAB
Robert Howard	NCMA
KOB Hume	FLA
Donna Clark	UAC
Crystal Feldman	SA
M. Brown	DAVC
Joe McClees	McClees Consult
Carson Hine	MVA
Heather Clarkson	DOW
Maggie Powell	-







Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, February 7, 2018, 5:00 PM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Sergeant-at-Arms

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 189	Short-Term Response to Emerging Contaminants.	Representative Davis Representative Hardister Representative Clampitt Representative Grange

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, February 07, 2018

Senator Sanderson,
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 189 (CS#1)

Short-Term Response to Emerging Contaminants.

Draft Number: H189-PCS40669-SB-33
Sequential Referral: Appropriations/Base Budget
Recommended Referral: None
Long Title Amended: Yes

TOTAL REPORTED: 1

Committee Clerk Comments:

Senate Ag/Enviro/Nat'l Res. Report 1 of 1

Senator Michael V. Lee will handle HB 189



* C M R 6 6 1 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, February 7, 2018 at 5:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 5:06 PM on February 7, 2018 in Room 1027/1128 of the Legislative Building. There were 15 members present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms, Giles Jeffreys and Linda Matthews. There were no Pages present.

HB 189 – Short-Term Response to Emerging Contaminates. (Reps. Davis, Hardister, Clappitt and Grange) *an act which will implement short term measures to respond to emerging contaminants in the environment.*

Senator Mike Lee introduced the bill. Senator Chaudhuri recused himself from discussion and voting. Senator Ron Rabin moved to consider a Senate PCS. Senator Mike Lee explained the PCS. The Chair and Senator Lee responded to questions from Senator Woodard. The Chair recognized Dr. Wanda Bodner, the Director of UNC's testing lab in Chapel Hill, NC and Dr. Brad James, Associate Vice Chancellor at UNC and Executive Director of the UNC Collaboratory. The Chair, Senator Lee, Dr. James and Dr. Bodner responded to questions from Senators Woodard, Smith, Lee, McInnis, Rabin, Wells and Bryant. Senator Bill Cook moved to amend the bill to allow for conforming changes. Jeff Hudson answered a question from Sen. Bryant. Senator Woodard moved to accept the amendment. The motion passed.

Following further discussion, Senator Rabin motioned for an Unfavorable report as to Committee Substitute Bill No. 1, but Favorable as to Senate Committee Substitute Bill, which was seconded by Senator McInnis. The motion passed.

There being no further business, the meeting adjourned at 6:14 PM.

Norman W. Sanderson

Senator Norman Sanderson, Chair

Kathy L. Voss

Kathy L. Voss, Committee Clerk





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 189

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

H189-AMH-60 [v.2]

Page 1 of 2

Amends Title [NO]
H189-CSRI-27 [v. 21]

Date _____, 2018

Senator COOK

moves to amend the bill on page 4, lines 9-45, by deleting those lines and inserting the following language:

"SECTION 7.(b) Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L. 2017-197, reads as rewritten:

"SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

Current Operations – General Fund	FY 2017-2018	FY 2018-2019
...		
NATURAL AND ECONOMIC RESOURCES		
...		
Department of Environmental Quality	78,170,327	77,012,714
...		
TOTAL CURRENT OPERATIONS –		
GENERAL FUND	\$ 22,980,769,893	\$ 23,650,253,958"

SECTION 7.(c) Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"SECTION 2.2.(a) The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

	FY 2017-2018	FY 2018-2019
Unappropriated Balance	\$ 208,607,416	\$ 499,303,328
...		
Revised Unappropriated Balance	108,607,416	499,303,328
...		
Beginning Unreserved Fund Balance	471,279,046	499,303,328
...		
Total General Fund Availability	23,623,979,046	24,634,803,328
...		
Revised General Fund Availability	\$ 23,529,781,221	\$ 24,022,005,283



* H 1 8 9 - A M H - 6 0 - V - 2 *

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 189

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

H189-AMH-60 [v.2]

Page 2 of 2

1 Less General Fund Net

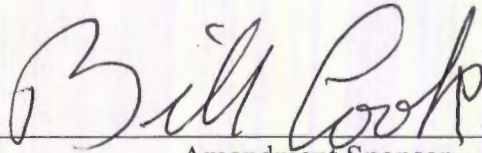
2 Appropriations ~~(23,030,477,893)~~ (23,032,877,893) (23,652,171,951)

3
4 Unappropriated Balance

5 Remaining \$ ~~499,303,328~~ 496,903,328 \$ ~~369,833,332~~ 367,433,332"

6 SECTION 7.(d) Nonrecurring funds appropriated by this act for the 2017-2018
7 fiscal year shall not revert but shall remain available for nonrecurring expenses through June
8 30, 2019."
9
10
11

SIGNED



Amendment Sponsor

SIGNED

Committee Chair if Senate Committee Amendment

ADOPTED

FAILED

TABLED



HOUSE BILL 189: Water Safety Act.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	February 7, 2018
Introduced by:	Reps. Davis, Hardister, Clampitt, Grange	Prepared by:	Jeff Hudson
Analysis of:	PCS to Second Edition H189-CSRI-27 [v.21]		Jennifer McGinnis Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for House Bill 189 would provide for the following measures related to emerging contaminants:*

- *Direct the Department of Health and Human Services (DHHS) to consult with federal agencies, as well as the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill (Collaboratory), which shall coordinate relevant faculty expertise in the University of North Carolina System, on the process for the establishment of health goals for per- and poly-fluoroalkyl substances*
- *Direct the Department of Environmental Quality (DEQ) to cooperate with any United States Environmental Protection Agency (USEPA) audit of DEQ's National Pollutant Discharge Elimination System (NPDES) permit program*
- *Direct DEQ to review the State's NPDES permitting program*
- *Direct DEQ to coordinate and share water quality data with neighboring states*
- *Provide for funding and research related to GenX and other emerging contaminants*

BILL ANALYSIS:

Section 1 would direct DHHS to consult with USEPA, the Centers for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, as well as the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill, which will coordinate with faculty experts across the University of North Carolina System, on DHHS's process for the establishment of health goals for per- and poly-fluoroalkyl substances.

Section 2 would direct DEQ to cooperate with any audit of its NPDES permitting program by USEPA and require it to work with USEPA to examine the adequacy of the program.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 189

Page 2

Section 3 would direct DEQ to review its NPDES permitting program from October 19, 1975, the date on which DEQ assumed authority to implement the program under delegation from USEPA, to the present. DEQ is specifically directed to examine issues related to:

- Full disclosure of information by permit applicants
- Processes for developing standards and limitations for emerging contaminants
- The NPDES permit review process
- The time required to process NPDES permit applications

DEQ would submit a final report with findings, including steps DEQ plans to take to improve its implementation of the program, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than June 1, 2018. These reports would include any information related to an audit of the NPDES permitting program by USEPA.

Section 4 would direct DEQ to coordinate and share water quality information with its following sister agencies:

- The Georgia Department of Natural Resources
- The South Carolina Department of Health and Environmental Control
- The Tennessee Department of Environment and Conservation
- The Virginia Department of Environmental Quality
- The West Virginia Department of Environmental Protection

Section 5 is a finding by the General Assembly that relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout the University of North Carolina System should be made available for:

- The analysis of water quality sampling with respect to the discharge of GenX and other emerging contaminants
- Related research on improved water quality sampling and analysis techniques, data interpretation, and potential mitigation measures that may be necessary, with respect to the discharge of GenX and other emerging contaminants

The General Assembly also finds that repurposing existing funds to facilitate these activities is an efficient utilization of State funds and resources.

Section 6.(a) would provide that in the event that USEPA no longer provides access to its analytical instrumentation at no cost to the State for water quality sampling analysis related to GenX and other emerging contaminants, or if DEQ determines that such analysis is not being performed in a sufficiently timely manner, the Collaboratory will coordinate such analysis in the most cost-effective manner using relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout the University of North Carolina System. The Collaboratory, in consultation with DEQ and relevant experts across the University of North Carolina System, would establish a protocol for delivery

House PCS 189

Page 3

of such samples taken by DEQ to the entity designated to perform analysis of the samples, chain of custody protocols, and other matters to ensure proper handling and processing of the samples.

Section 6.(b) would direct the Collaboratory to identify faculty expertise within the University of North Carolina System, and use technology, and instrumentation, including mass spectrometers, existing throughout the University of North Carolina System, to conduct the following research:

- Develop quantitative models to predict which private wells are most at risk of contamination from the discharge of GenX and other emerging contaminants
- Test the performance of household water filters in removing such compounds

The Collaboratory may, using relevant faculty expertise, technology, and instrumentation existing throughout the University of North Carolina System, evaluate other research opportunities and conduct such research for improved water quality sampling and analyses techniques, data interpretation, and potential mitigation measures that may be necessary, with respect to the discharge of GenX and other emerging contaminants.

Section 6.(c) would authorize the Collaboratory to use for the purposes set forth in this act no more than one million dollars (\$1,000,000) for the 2017-2018 fiscal year and no more than one million dollars (\$1,000,000) for the 2018-2019 fiscal year of funds allocated for use as matching funds by the Collaboratory.

Section 7 would appropriate the sum of \$2,400,000 in nonrecurring funds for the 2017-2018 fiscal year from the unappropriated balance remaining in the General Fund to DEQ to implement the act. DEQ would report no later than June 1, 2018, and quarterly thereafter, to the Joint Legislative Committee on Governmental Operations on how funds appropriated under this section will be and are being used.

EFFECTIVE DATE: Except as otherwise provided, the act would become effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

D

HOUSE BILL 189
Committee Substitute Favorable 1/10/18
PROPOSED SENATE COMMITTEE SUBSTITUTE H189-CSRI-27 [v.21]
2/6/2018 10:08:20 PM

Short Title: Water Safety Act.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT MEASURES TO ADDRESS "GENX" AND OTHER
3 EMERGING CONTAMINANTS.

4
5 The General Assembly of North Carolina enacts:

6
7 **DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONSULT**
8 **WITH FEDERAL AGENCIES, AS WELL AS THE NORTH CAROLINA POLICY**
9 **COLLABORATORY AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL**
10 **HILL, WHICH SHALL COORDINATE RELEVANT FACULTY EXPERTISE IN THE**
11 **UNIVERSITY OF NORTH CAROLINA SYSTEM, ON THE PROCESS FOR THE**
12 **ESTABLISHMENT OF HEALTH GOALS FOR PER- AND POLY-FLUOROALKYL**
13 **SUBSTANCES**

14 **SECTION 1.** The Department of Health and Human Services shall consult with the
15 the United States Environmental Protection Agency, the Centers for Disease Control and
16 Prevention, the Agency for Toxic Substances and Disease Registry, as well as the North
17 Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill, which shall
18 coordinate with faculty experts across the University of North Carolina System, including the
19 University of North Carolina at Wilmington and the Gillings Global School of Public Health of
20 The University of North Carolina at Chapel Hill, on the Department's process for the
21 establishment of health goals for per- and poly-fluoroalkyl substances.

22
23 **DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COOPERATE**
24 **WITH ANY UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AUDIT**
25 **OF THE DEPARTMENT'S NPDES PERMIT PROGRAM**

26 **SECTION 2.** The Department of Environmental Quality shall cooperate with any
27 audit of its National Pollutant Discharge Elimination System (NPDES) permitting program by
28 the United States Environmental Protection Agency (USEPA). In the event of an audit, the
29 Department shall specifically work with the USEPA to examine the adequacy of the
30 Department's NPDES permitting program.

31
32 **REVIEW NPDES PERMIT PROGRAM**

33 **SECTION 3.** The Department of Environmental Quality shall review its National
34 Pollutant Discharge Elimination System (NPDES) permitting program from October 19, 1975,
35 the date on which the Department assumed authority to implement the program under



* H 1 8 9 - C S R I - 2 7 *

delegation from the United States Environmental Protection Agency pursuant to Section 402 (b) of the federal Clean Water Act and 40 CFR Part 123, to the effective date of this act. In conducting its review, the Department shall examine:

- (1) Requirements for persons applying for individual NPDES permits to fully disclose in applications for new permits, permit renewals, or permit modifications, all pollutants, including emerging contaminants for which an applicable discharge standard has not been established under State or federal law, included in their discharge.
- (2) Existing processes for developing standards or limitations for emerging contaminants for which an applicable discharge standard has not previously been established under State or federal law, included in a permittee's discharge.
- (3) Internal permit review processes to ensure thorough and timely review of permit applications.
- (4) The time required to process all NPDES permit applications that are received by the Department. The examination of processing time shall include (i) of 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.

The Department shall submit a final report with findings, including any steps the Department plans to take to improve the Department's implementation of the program, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than June 1, 2018. In accordance with Section 2 of this act, the Department shall include any information related to an audit of its NPDES permitting program by the USEPA in the report.

DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COORDINATE AND SHARE WATER QUALITY DATA WITH STATES IN THE REGION

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

"§ 143-215.1D. Coordination with neighboring states.

The Department of Environmental Quality shall coordinate with the Georgia Department of Natural Resources, the South Carolina Department of Health and Environmental Control, the Tennessee Department of Environment and Conservation, the Virginia Department of Environmental Quality, and the West Virginia Department of Environmental Protection to improve processes for sharing information about contaminants identified in surface water or groundwater shared by or passing or flowing across the border of those states and this State. As needed, the Department shall share with those agencies water quality data for, and information about any contaminant identified in, surface water or groundwater shared by or passing or flowing across the border of those states and this State."

GENX FUNDING/USE OF MASS SPECTROMETERS AVAILABLE IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM

SECTION 5. The General Assembly finds that relevant faculty expertise, technology, and instrumentation, including mass spectrometers, existing throughout the University of North Carolina System should be made available for the analysis of water quality sampling with respect to the discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, and that repurposing existing funds to facilitate these activities is an efficient utilization of State funds and resources. In addition, the General Assembly finds that relevant faculty expertise,

1 technology, and instrumentation, including mass spectrometers, existing throughout the
2 University of North Carolina System should be made available for related research on
3 improved water quality sampling and analysis techniques, data interpretation, and potential
4 mitigation measures that may be necessary, with respect to the discharge of the
5 poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or
6 13252-13-6), and other emerging contaminants, and that repurposing existing funds to facilitate
7 these activities is an efficient utilization of State funds and resources.

8 **SECTION 6.(a)** In the event that the United States Environmental Protection
9 Agency no longer provides access to its analytical instrumentation at no cost to the State for
10 water quality sampling analysis related to the poly-fluoroalkyl chemical known as "GenX"
11 (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, or if the
12 Department of Environmental Quality determines that such analysis is not being performed in a
13 sufficiently timely manner, the North Carolina Policy Collaboratory at the University of North
14 Carolina at Chapel Hill shall coordinate such analysis in the most cost-effective manner using
15 relevant faculty expertise, technology, and instrumentation, including mass spectrometers,
16 existing throughout the University of North Carolina System. The Collaboratory, in
17 consultation with the Department and relevant experts across the University of North Carolina
18 System, including the University of North Carolina at Wilmington and the Environmental
19 Sciences and Engineering Department within the Gillings Global School of Public Health of
20 The University of North Carolina at Chapel Hill, shall establish a protocol for delivery of such
21 samples taken by the Department to the entity designated to perform analysis of the samples,
22 chain of custody protocols, and other matters to ensure proper handling and processing of the
23 samples.

24 **SECTION 6.(b)** The North Carolina Policy Collaboratory at the University of
25 North Carolina at Chapel Hill shall identify faculty expertise within the University of North
26 Carolina System, and use technology, and instrumentation, including mass spectrometers,
27 existing throughout the University of North Carolina System, to conduct the following
28 research: (1) develop quantitative models to predict which private wells are most at risk of
29 contamination from the discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS
30 registry number 62037-80-3 or 13252-13-6), and other emerging contaminants; and (2) test the
31 performance of household water filters in removing such compounds. In addition, the
32 Collaboratory may, using relevant faculty expertise, technology, and instrumentation existing
33 throughout the University of North Carolina System, evaluate other research opportunities and
34 conduct such research for improved water quality sampling and analyses techniques, data
35 interpretation, and potential mitigation measures that may be necessary, with respect to the
36 discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number
37 62037-80-3 or 13252-13-6), and other emerging contaminants.

38 **SECTION 6.(c)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by
39 Section 10.4 of S.L. 2017-57, the North Carolina Policy Collaboratory is authorized to use for
40 the purposes set forth in this act no more than one million dollars (\$1,000,000) for the
41 2017-2018 fiscal year and no more than one million dollars (\$1,000,000) for the 2018-2019
42 fiscal year of the funds appropriated for the 2016-2017 fiscal year to the Office of State Budget
43 and Management, Special Appropriations, and allocated to the Board of Trustees of The
44 University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory.
45 Funds reallocated by this section shall not revert but shall continue to be available as provided
46 in this act.

47 **SECTION 6.(d)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by
48 Section 10.4 of S.L. 2017-57, no match is required for funds reallocated by this Section.
49

50 FUNDS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 7.(a) The sum of two million four hundred thousand dollars (\$2,400,000) in nonrecurring funds for the 2017-2018 fiscal year shall be appropriated from the unappropriated balance remaining in the General Fund to the Department of Environmental Quality to implement this act. The Department of Environmental Quality shall report no later than June 1, 2018, and quarterly thereafter, to the Joint Legislative Committee on Governmental Operations on how funds appropriated under this section will be and are being used.

SECTION 7.(b) Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L. 2017-197, reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

Current Operations – General Fund	FY 2017-2018	FY 2018-2019
...		
NATURAL AND ECONOMIC RESOURCES		
...		
Department of Environmental Quality	78,170,32780,170,327	77,012,714
...		
TOTAL CURRENT OPERATIONS –		
GENERAL FUND \$ 22,980,769,89322,982,769,893		\$ 23,650,253,958"

SECTION 8.(b) Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 2.2.(a)** The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

	FY 2017-2018	FY 2018-2019
Unappropriated Balance	\$ 208,607,416	\$ 499,303,328497,303,328
...		
Revised Unappropriated Balance	108,607,416	499,303,328497,303,328
...		
Beginning Unreserved Fund Balance	471,279,046	499,303,328497,303,328
...		
Total General Fund Availability	23,623,979,046	24,634,803,32824,632,803,328
...		
Revised General Fund Availability	\$ 23,529,781,221	\$ 24,022,005,28324,020,005,283
Less General Fund Net		
Appropriations	(23,030,477,893)23,032,477,893	(23,652,171,951)
Unappropriated Balance		
Remaining	\$ 499,303,328497,303,328	\$ 369,833,332367,833,332"

SECTION 7.(c) Nonrecurring funds appropriated by this act for the 2017-2018 fiscal year shall not revert but shall remain available for nonrecurring expenses through June 30, 2019.

EFFECTIVE DATE

SECTION 8. Except as otherwise provided, this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

2

HOUSE BILL 189
Committee Substitute Favorable 1/10/18

Short Title: Short-Term Response to Emerging Contaminants.

(Public)

Sponsors:

Referred to:

February 27, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT SHORT-TERM MEASURES TO RESPOND TO EMERGING
3 CONTAMINANTS IN THE ENVIRONMENT.

4 The General Assembly of North Carolina enacts:

5
6 **DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONSULT**
7 **WITH THE SECRETARIES' SCIENCE ADVISORY BOARD IN THE**
8 **DEVELOPMENT OF HEALTH GOALS FOR CONTAMINANTS**

9 **SECTION 1.(a)** For purposes of this section, the Secretaries' Science Advisory
10 Board shall mean the Science Advisory Board established by the Secretary of Environmental
11 Quality and the Secretary of Health and Human Services on July 28, 2017.

12 **SECTION 1.(b)** The Department of Health and Human Services shall consult with
13 the Secretaries' Science Advisory Board on the Department's process for the establishment of
14 health goals for contaminants. The Secretaries' Science Advisory Board shall review the
15 process by which the Department establishes health goals for contaminants and make
16 recommendations on how to improve the process, including how to promote greater public
17 understanding of and confidence in the health goals.

18 **SECTION 1.(c)** To the extent practicable, the Department of Health and Human
19 Services shall notify the Chair of the Secretaries' Science Advisory Board prior to issuing a
20 provisional health goal for a contaminant. The Department of Health and Human Services shall
21 submit all newly issued provisional health goals to the Secretaries' Science Advisory Board at
22 their next scheduled meeting.

23
24 **STUDY NPDES PERMIT PROGRAM**

25 **SECTION 2.** The Department of Environmental Quality shall study the State's
26 National Pollutant Discharge Elimination System (NPDES) permitting program to ensure that
27 associated requirements are sufficient to protect public health, safety, welfare, and the
28 environment. In conducting the study, the Department shall examine the adequacy of:

- 29 (1) Requirements for persons applying for individual NPDES permits to fully
30 disclose in applications for new permits, permit renewals, or permit
31 modifications, all pollutants, including emerging chemicals for which an
32 applicable discharge standard has not been established under State or federal
33 law, included in their discharge.
34 (2) Monitoring, sampling, and laboratory analytical requirements applicable to
35 persons holding current NPDES permits and to persons applying for new
36 NPDES permits. In assessing the adequacy of analytical requirements, the



Department shall evaluate the consistency of analytical methods used by private labs to detect and quantify pollutants, including emerging chemicals for which an applicable discharge standard has not been established under State or federal law. And, based on information gathered in that regard, whether, to ensure the accuracy of discharge sampling results, it would be feasible and advisable for the Department to develop a certified list of laboratories through which dischargers must obtain laboratory analyses of their discharge or whether the Department should require submission of discharge samples to the Department for laboratory analyses by the Department.

(3) Existing processes for developing standards or limitations for emerging chemicals for which an applicable discharge standard has not previously been established under State or federal law, included in a permittee's discharge.

(4) Internal permit review processes to ensure thorough and timely review of permit applications.

The Department shall submit an interim report with findings, including any recommendations for legislative action, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than April 1, 2018, and a final report with findings, including any recommendations for legislative action, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than December 1, 2018.

DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COORDINATE AND SHARE WATER QUALITY DATA WITH STATES IN THE REGION

SECTION 3. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.1D. Coordination with neighboring states.

The Department of Environmental Quality shall coordinate with the Georgia Department of Natural Resources, the South Carolina Department of Health and Environmental Control, the Tennessee Department of Environment and Conservation, the Virginia Department of Environmental Quality, and the West Virginia Department of Environmental Protection to improve processes for sharing information about contaminants identified in surface water or groundwater shared by or passing or flowing across the border of those states and this State. As needed, the Department shall share with those agencies water quality data for, and information about any contaminant identified in, surface water or groundwater shared by or passing or flowing across the border of those states and this State."

DEPARTMENT OF ENVIRONMENTAL QUALITY REPORTING AND NOTICE STUDY

SECTION 4. The Department of Environmental Quality shall study the statutory requirements for dischargers of untreated wastewater, untreated waste, and other substances to notify the Department and the public of discharges, including the volumetric thresholds that trigger the reporting requirements, to ensure that the requirements are sufficient to protect public health and provide adequate notice to the Department and the public. The Department shall consider whether there are any conflicts or redundancies in the statutory notice and reporting requirements. The Department shall also study its processes for notifying the General Assembly and the Environmental Management Commission of the presence in the environment of emerging chemicals for which an applicable discharge standard has not been established under State or federal law. The Department shall report its findings, including any legislative

recommendations, to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than April 1, 2018.

WATER UTILITY CIVIL LIABILITY STUDY

SECTION 5. The School of Government at the University of North Carolina at Chapel Hill shall study the extent to which public and private water utilities may be held civilly liable for distribution of drinking water contaminated by a pollutant without applicable discharge standards established under State or federal law and the extent to which public water utilities and private water utilities are treated differently for purposes of civil liability. The School of Government shall submit the results of the study to the House Select Committee on North Carolina River Quality, the Senate Select Committee on North Carolina River Water Quality, and the Environmental Review Commission no later than April 1, 2018.

GENX FUNDING

SECTION 6.(a) The General Assembly finds that the discharges of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or 13252-13-6) demonstrate the need for supplemental funding to support the identification, characterization, and monitoring by scientists, engineers, and other professionals of GenX and other emerging contaminants in the land, air, and waters of the State. The purpose of this section is to repurpose existing funds to address these critical needs.

SECTION 6.(b) One million three hundred thousand dollars (\$1,300,000) in nonrecurring funds appropriated to the Department of Environmental Quality for the 2016-2017 fiscal year and allocated for in situ nutrient management by Section 14.13(e) of S.L. 2016-94, as amended by Section 13.24 of S.L. 2017-57, is reallocated for the purposes described in subsection (d) of this section.

SECTION 6.(c) Twenty-five thousand dollars (\$25,000) in nonrecurring funds appropriated to the Rural Economic Development Division of the Department of Commerce for the 2017-2018 fiscal year and provided as a grant-in-aid to the Town of Stedman by subdivision (15) of Section 15.8(b) of S.L. 2017-57 is transferred to the Department of Environmental Quality and allocated for the purposes described in subsection (d) of this section.

SECTION 6.(d) The funds provided to the Department of Environmental Quality by subsections (b) and (c) of this section shall be allocated for the 2017-2018 fiscal year as follows:

- (1) Eight hundred thirteen thousand dollars (\$813,000) to the Division of Water Resources for time-limited positions and operations support of water quality sampling related to GenX and other emerging contaminants and to address permitting backlogs.
- (2) Two hundred thirty-two thousand nine hundred fifty dollars (\$232,950) to the Division of Air Quality for sampling and analysis of atmospheric deposition of GenX and other emerging contaminants.
- (3) Two hundred seventy-nine thousand fifty dollars (\$279,050) to the Division of Waste Management for sampling and analysis of GenX and other emerging contaminants in groundwater wells, soil, and sediment.

SECTION 6.(e) Funds reallocated by this section shall not revert but shall remain available for nonrecurring expenses, including the establishment of time-limited positions, through June 30, 2019.

SECTION 7.(a) The sum of four hundred seventy-nine thousand seven hundred thirty-six dollars (\$479,736) in recurring funds for the 2017-2018 fiscal year is appropriated from the unappropriated balance remaining in the General Fund to the Department of

Environmental Quality to support sampling and analysis activities associated with discharges of GenX and other emerging contaminants.

SECTION 7.(b) Notwithstanding Section 6.1(a) of S.L. 2017-57, five hundred thirty-seven thousand dollars (\$537,000) in nonrecurring funds for the 2017-2018 fiscal year is allocated from the Contingency and Emergency Fund to the Department of Environmental Quality to support the acquisition by the Department of analytic equipment to evaluate in a more timely and cost-effective manner the threat to public health and safety resulting from discharges of GenX and other emerging contaminants.

SECTION 8.(a) Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L. 2017-197, reads as rewritten:

"**SECTION 2.1.** Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

Current Operations – General Fund	FY 2017-2018	FY 2018-2019
...		
NATURAL AND ECONOMIC RESOURCES		
...		
Department of Environmental Quality	<u>78,170,327</u> <u>78,650,063</u>	<u>77,012,714</u> <u>77,492,450</u>
...		
TOTAL CURRENT OPERATIONS –		
GENERAL FUND	\$ 22,980,769,893 <u>22,981,249,629</u>	\$ 23,650,253,958 <u>23,650,733,694</u> "

SECTION 8.(b) Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"**SECTION 2.2.(a)** The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

	FY 2017-2018	FY 2018-2019
Unappropriated Balance	\$ 208,607,416	\$ <u>499,303,328</u> <u>498,823,592</u>
...		
Revised Unappropriated Balance	108,607,416	<u>499,303,328</u><u>498,823,592</u>
...		
Beginning Unreserved Fund Balance	471,279,046	<u>499,303,328</u><u>498,823,592</u>
...		
Total General Fund Availability	23,623,979,046	<u>24,634,803,328</u><u>24,634,323,592</u>
...		
Revised General Fund Availability	\$ 23,529,781,221	\$ <u>24,022,005,283</u><u>24,021,525,547</u>
Less General Fund Net		
Appropriations	(23,030,477,893) <u>(23,030,957,629)</u>	(23,652,171,951) <u>(23,652,651,687)</u>
Unappropriated Balance		
Remaining	\$ <u>499,303,328</u><u>498,823,592</u>	\$ <u>369,833,332</u><u>368,873,860</u>"

SECTION 9. Nonrecurring funds appropriated by this act for the 2017-2018 fiscal year shall not revert but shall remain available for nonrecurring expenses through June 30, 2019.

EFFECTIVE DATE

SECTION 10. Except as otherwise provided, this act is effective when it becomes law.



**NAME OF MEETING: Senate Committee on
Agriculture/Natural/Economic Resources**

DATE: February 7, 2018 Room 1027/1128 5:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
LT McCrimmon	DTHS
Max Gross	DTHS
Will Robinson Paul Sherrin	The Nature Conservancy NCEB
Tommy Stevens	Stevens Hobby
Chris [unclear]	
Sett Picher	NCE
John Gowers	FSP
Lindsey Dowling	FSP
David Collins	WHL West
Andy Miller	DEQ
Justin Clayton	Governor
LEE LILLEY	Governor
Amy Fullbright	Bright Way strategies
DAVID SNEED	CCA NC
Drew Metz	UNC System





**NAME OF MEETING: Senate Committee on
Agriculture/Natural/Economic Resources**

DATE: February 7, 2018 Room 1027/1128 5:00 PM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Ashton Goolen	WRC
Tom Fether	FSP
Robert Howard	CBS
Robert Howard	NEMA
Clinton Jones	UNC
Wanda Bodnar	UNC
BRAD WBS	UNC
Steve Am Forest	NCMS
Crystal Feldman	STA
Laura	NCDA + CS
Brooks Rainey Pearson	SELC
Cassie Gavin	Sierra Club
Molly Diggins	Sierra Club
Drew Ball	Environment NC
Tom BEAN	EDF, NCWF
My Mable Ashum	SELC
Johnnie	NOON
Phoebe Johnston	MLC





Senate Committee on Agriculture/Environment/Natural Resources
Thursday, May 24, 2018, 10:00 AM
544 Legislative Office Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 719	Bakers Mountain/State Park Authorization.	Senator Wells

Presentations

Other Business

Adjournment

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, May 24, 2018

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

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

SB 719

Bakers Mountain/State Park Authorization.

Draft Number:	S719-PCS35344-BR-1
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Andy Wells will handle SB 719



* C M R 6 7 3 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, May 24, 2018 at 10:00 AM
Room 544 of the Legislative Office Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 10:04 a.m. on May 24, 2018 in Room 544 of the Legislative Office Building. 16 members were present.

Senator Bill Cook, Chair, presided.

Sen Cook: Welcome. Let's recognize our Sergeant-at-Arms and Senate Pages before getting started. We will be substituting SB719, Baker's Mountain/State Park Authorization, for a PCS. Senator Wells will speak to the PCS.

SB 719 Jacob Fork State Natural Area Authorization. (Senator Wells)

Sen Wells: We have a PCS on this bill, I'll refer to staff as to what that does.

Staff: SB719 would authorize the Department of Natural and Cultural Resources to add the Baker's Mountain State Park to the state park system. The PCS just makes a name change to the park and section 4 adds technical language.

Sen Wells: The PCS is a response to recent events and things we've learned in the process. We have seen that there is a need for more natural areas in the Charlotte area. There is a very large discrepancy in the amount of parks near Raleigh, and a substantial lack thereof of parks in the Catawba Valley. The Catawba County Commissioners have approved a bond which would allow them to purchase a 600 acre park on Lake Norman, but that would only be two Catawba County Parks. The other part of the PCS is to protect Natural Heritage Areas from development. This will address that concern and allow state parks to see how they can protect those areas. I'd like to call Carol Tingle to speak on the PCS.

Carol Tingle, Interim Director for Division of State Parks and Recreation: The Jacob Fork Area represents one of the highest valued conservation areas in Catawba County. It is suitable for addition to the state park system. This would also be part of a multi-county trail plan that will extend outside of Catawba County.

Sen Wells: We have heard some concern with land acquisition, can you dress these?

Carol Tingle: We only work with willing sellers, we never condemn land to acquire land. This makes it more difficult to acquire land and it takes longer but we only work with willing sellers and buy at fair-market values.

Sen Smith: Is there someone from the Department of Natural and Cultural Resources that can speak?



Sen Cook: Carol is from the department.

Sen Wade: Senator Wells, there was some concern that, monies from the parks, this would add another park and they're all trying to get grant money. Would this new park just be put in the system like everyone else as far as going for grant money?

Sen Wells: It's an appropriation.

Sen Wade: So it's an appropriation just for this park?

Sen Wells: Yes

Sen B. Jackson: Sen Wells, the \$100,000 that's being appropriated for this park, what is that money to be used for?

Sen Wells: Land acquisition.

Sen Smith: If the bulk of that money will be used for land acquisition, what about the staff that will be needed? How much of an impact will that be?

Sen Wells: This does not create a park. It's for a natural area which does not require rangers and staff.

Carol Tingle: Yes, a natural area is conservation focused. Generally, it doesn't have extensive facilities or staff. If enough land were to be purchased over time, it may become a park but for now it would only be a natural area which won't require additional funding for operations.

Sen Cook: All in favor of a favorable report on the PCS.

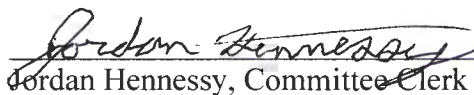
Aye: Unanimous Nay: None

Motion carries

The meeting adjourned at 10:20 a.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk





SENATE BILL 719: Jacob Fork State Natural Area Authorization.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	Date:	May 24, 2018
Introduced by:	Sen. Wells	Prepared by:	Kyle Evans
Analysis of:	PCS to First Edition S719-CSBR-1		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 719 would authorize the Department of Natural and Cultural Resources (DNCR) to add Jacob Fork State Natural Area to the State Parks System.*

CURRENT LAW: G.S. 143B-135.54 provides that DNCR 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 PCS to Senate Bill 719 would authorize DNCR to add Jacob Fork State Natural Area to the State Parks System as provided in G.S. 143B-135.54.

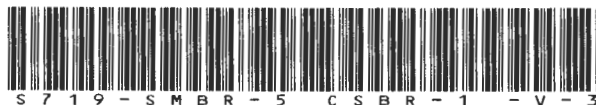
The act also authorizes the State to receive donations of land and to purchase other needed lands for the Jacob Fork State Natural Area. Funds for land purchases would come from the Clean Water Management Trust Fund, the Parks and Recreation Trust Fund, the federal Land and Water Trust Fund, and other available sources of funding.

The act includes a \$100,000 appropriation to DNCR to implement the provisions of this act.

EFFECTIVE DATE: This act would be effective when it becomes law.

BACKGROUND: See attached documents provided by DNCR's Division of Parks and Recreation.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
919-733-2478

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



Proposed Bakers Mountain State Park Background

North Carolina's population is growing and visitation to the state parks system is growing even faster. It is important to plan ahead for new park land to serve the future population and to support the growing outdoor recreation industry.

At present there is no state park land in Catawba County.

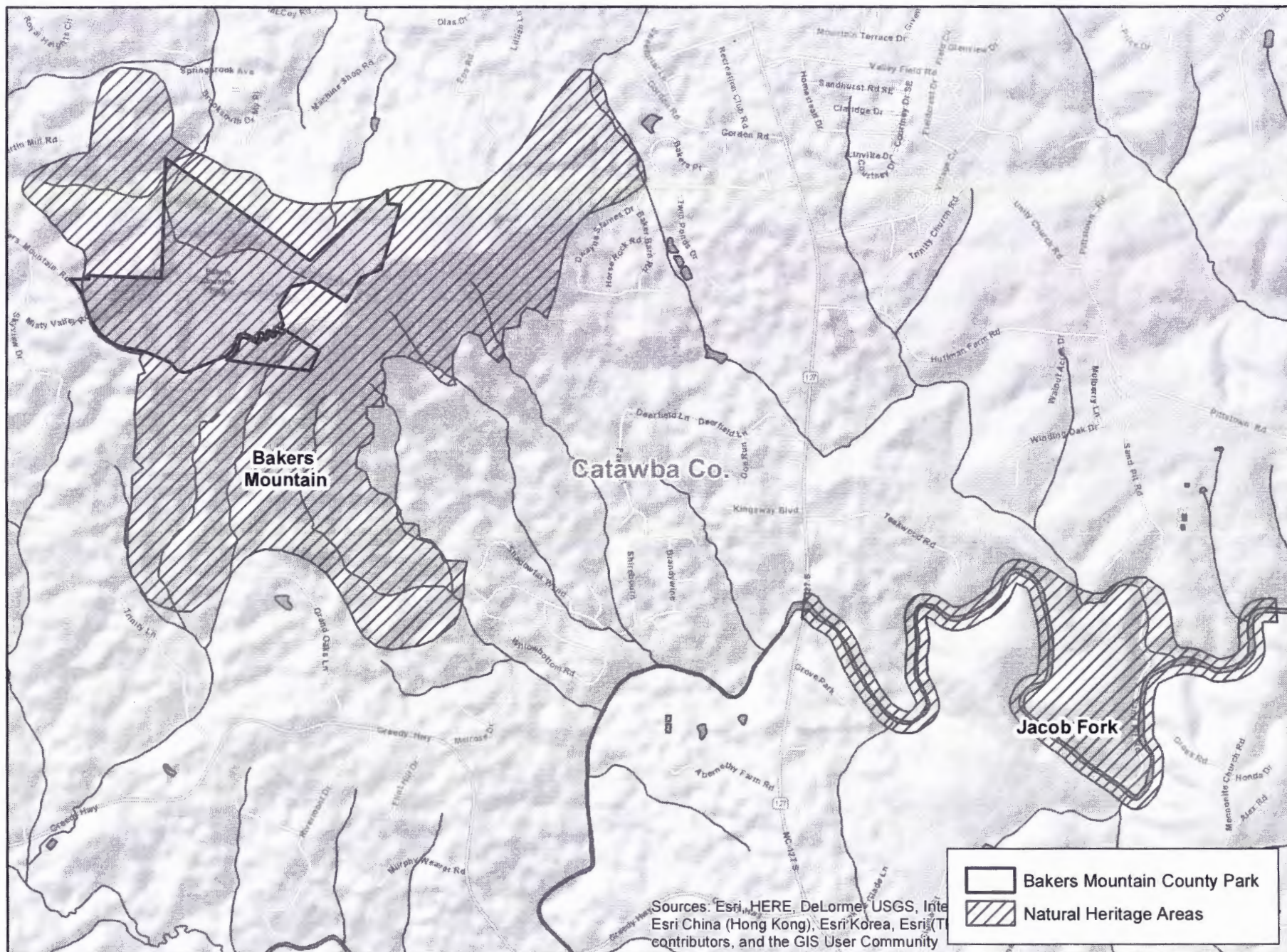
Bakers Mountain and the nearby corridor of Jacob Fork contain natural communities with the highest conservation values in Catawba County, according to the NC Natural Heritage Program (An Inventory of Significant Natural Areas of Catawba County, North Carolina, 2002). (See attached map.)

Bakers Mountain could be the terminus of a potential new trail connecting Chimney Rock State Park through South Mountains State Park to Catawba County. (See attached map.)

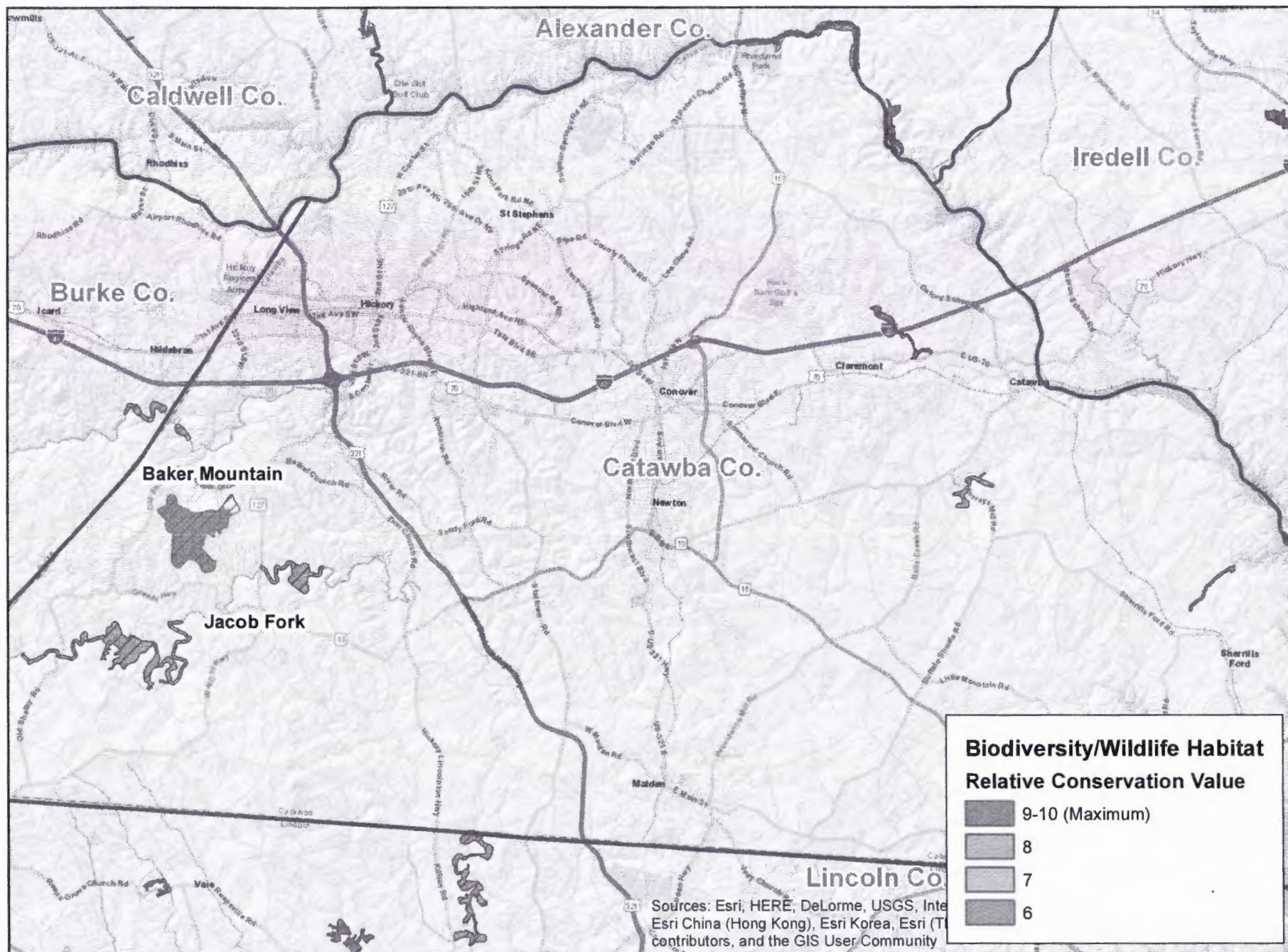
The existing Bakers Mountain County Park is well-managed by the county, and alone it is not large enough for a viable state park. A new state park could be created with additional land acquisition on the mountain, along Jacob Fork, and connecting parcels. The state would only acquire land from willing sellers, and at this time it is unknown whether enough land for a park would be available. It could easily take several years to complete land acquisition for a state park in this area.

At present, there is no state park staff available to manage and operate a state park at Bakers Mountain.

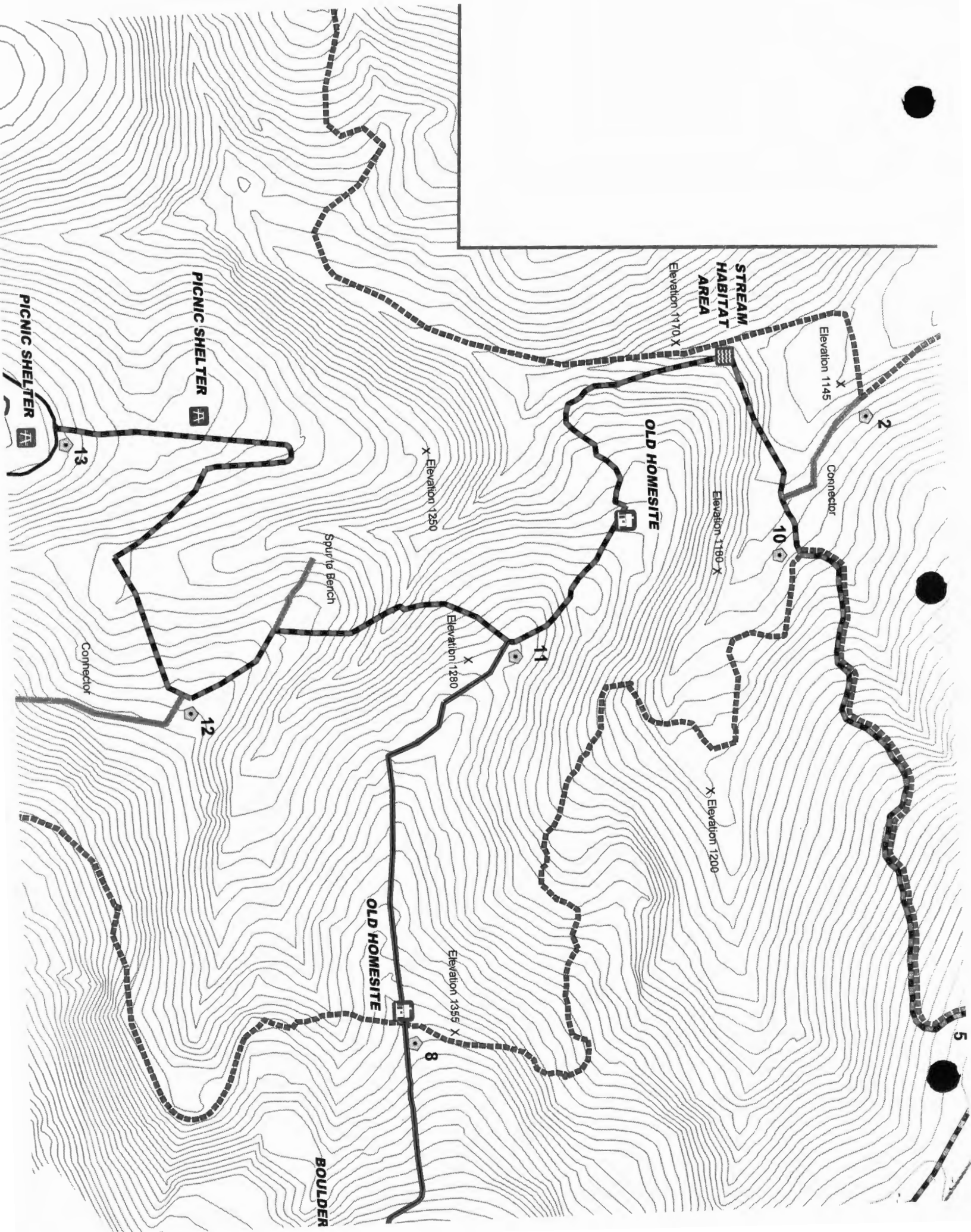


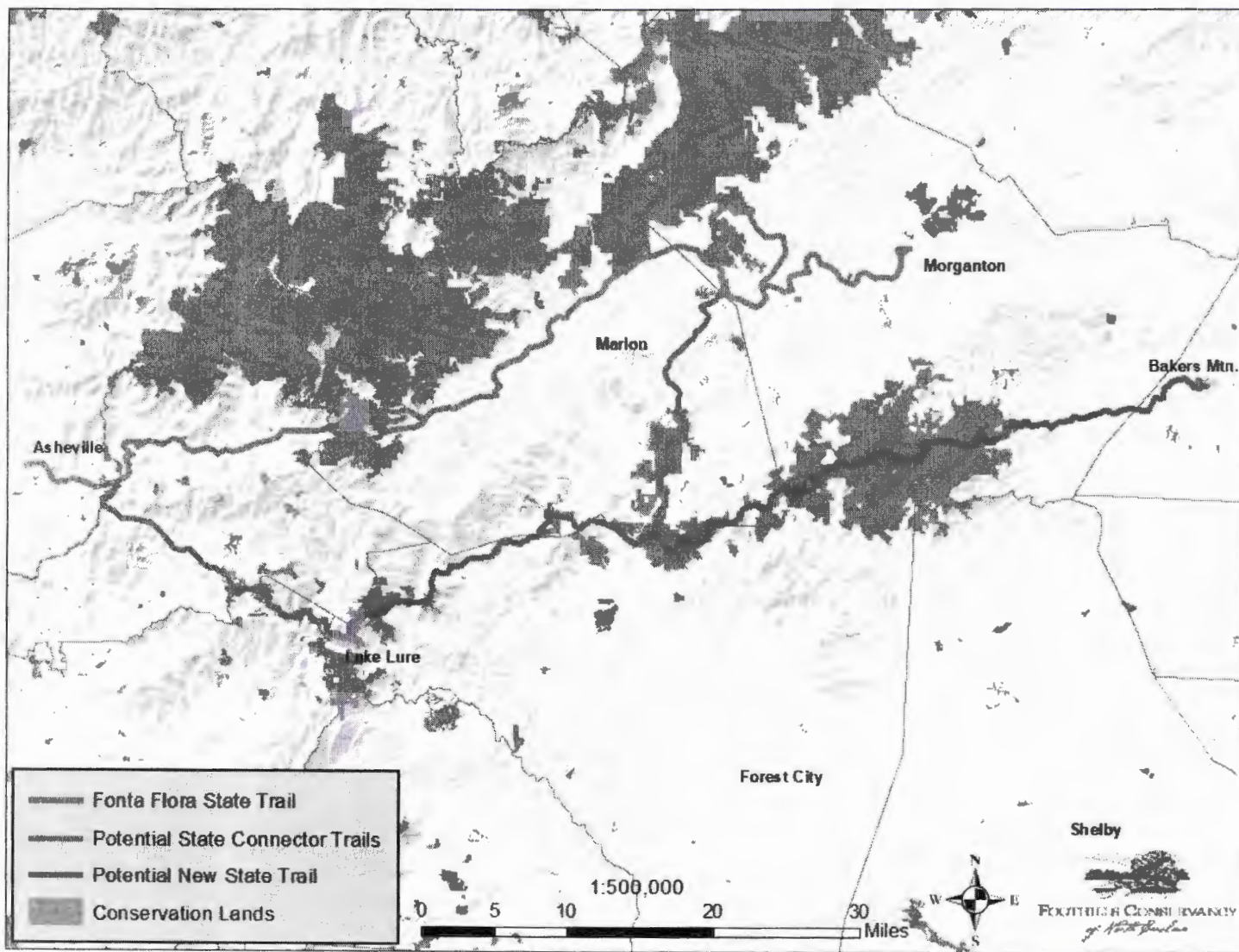














GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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SENATE BILL 719

PROPOSED COMMITTEE SUBSTITUTE S719-CSBR-1 [v.3]

05/23/2018 05:39:57 PM

Short Title: Jacob Fork State Natural Area Authorization.

(Public)

Sponsors:

Referred to:

May 21, 2018

- 1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ADDITION OF JACOB FORK STATE NATURAL AREA
3 IN CATAWBA COUNTY TO THE STATE PARKS SYSTEM.
4 The General Assembly of North Carolina enacts:
5 **SECTION 1.** The General Assembly authorizes the Department of Natural and
6 Cultural Resources to add Jacob Fork State Natural Area in Catawba County to the State Parks
7 System as provided in G.S. 143B-135.54(b).
8 **SECTION 2.** The State may receive donations of appropriate land and may purchase
9 other needed lands for Jacob Fork State Natural Area with existing funds in the Clean Water
10 Management Trust Fund, the Parks and Recreation Trust Fund, the federal Land and Water Trust
11 Fund, and other available sources of funding.
12 **SECTION 3.** One hundred thousand dollars (\$100,000) in nonrecurring funds for
13 the 2018-2019 fiscal year is appropriated to the Department of Natural and Cultural Resources
14 to implement the provisions of this act.
15 **SECTION 4.** The provisions of G.S. 143C-5-2 do not apply to this act.
16 **SECTION 5.** This act is effective when it becomes law.



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Senate Committee

On

Agriculture, Environmental, and Natural Resources

May 24, 2018

Room 544 LOB – 10:00 AM

Senate Sergeant at Arms:

JIM HAMILTON

STEVE MCKAIG



Senate Pages Attending

COMMITTEE: Agriculture / Environ. ROOM: 544
 DATE: 5-24-18 TIME: 10^{AM}

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

Page Name	Hometown	Sponsoring Senator
1. <u>Darron Stephens</u>	<u>Wade</u>	<u>Meredith</u>
2. <u>Philip Nazzaro</u>	<u>Oak Island</u>	<u>Rabon</u>
3. <u>Haymon Settle</u>	<u>Etidsville</u>	<u>Berger</u>
4. <u>Landen Morris</u>	<u>Roanoke Rapids</u>	<u>McInnis</u>
5. <u>Liz Duarte</u>	<u>Thomasville</u>	<u>Cathy Clae</u>
6. <u>Matt Fry</u>	<u>Durham</u>	<u>Woodard</u>
7. <u>Jackson Medlin</u>	<u>Rhonda</u>	<u>Randeman</u> Vause
8.		

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





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

May 24, 2018

Room 544 LOB - 10:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Chris Broughton	MWC
Christina Kochanski	NCCN
Emily Hoffman	NCCN
Corey Pilson	NCCN
David Brundell	DOJ
Chris Mullen	NGA
Will Robinson	TNC
Amanda Hall	IDA
Amith Mandavilli	NGA
Laura Collins	NGA
Carlin Little	UNC 903
Amber Harris	NACC
Chris White	NCDEQ
Shrikar Nanna	NCDFQ
Timothy Webster	NCDEQ

txas





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

May 24, 2018

Room 544 LOB – 10:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Tommy Stevens	Stevens Lobby
KBS Lamun	REA
Doug Lassiter	NC STA
Laura Kilian	NC DA
Nancy Jones	Jordan Price
Justin Clayton	Governor
Besha Fouts	SEANL
Carol Tingley	NC State Parks
Lex Janes	DNCR
Nick Billman	Williams Mullen
John HARRIS	MFS
Paul Sherman	NCFB
Chase Faircloth	NCFB
John Feldmann	NCCN
Elizabeth Birk	Burke P. Co.





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

May 24, 2018

Room 544 LOB – 10:00 AM

PLEASE SIGN IN BELOW

[illegible]





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

May 24, 2018

Room 544 LOB – 10:00 AM

PLEASE SIGN IN BELOW

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Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 30, 2018, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 361	Coastal Crescent Trail/State Parks System. For Discussion Only!	Representative Shepard Representative McElraft Representative White Representative Strickland

Presentations

Other Business

Adjournment



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, May 30, 2018 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:03 AM on May 30, 2018 in Room 1027/1128 of the Legislative Building. There were 14 members present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms Frances Patterson, Terry Edmondson, and Steve McKaig. The chair also recognized pages Taylor Simonds from Murphy, sponsored by Senator Jim Davis; Taylor Rhoders from Four Oaks, sponsored by Senator Brent Jackson; Forbes Weaver from Winston-Salem, sponsored by Senator Krawiec; Lane Russell from Raleigh, sponsored by Senator Phil Berger and Marleigh Purgar-McDonald from Durham, sponsored by Senator Woodard.

Senator Sanderson addressed any guests intending to speak and asked them to sign up with the Sergeant at Arms. Each speaker will be limited to 2 minutes.

HB 361 – Coastal Crescent Trail/State Parks System (Reps. Shepard, McElraft, White and Strickland) (*For Discussion Only*)

Senator Bill Cook submitted a PCS with a title change to ***SUPPORT SHELLFISH INDUSTRY***. Senator Wade moved to consider the PCS. Senator Cook provided an overview of the PCS while Jeff Hudson explained the technical aspects of the PCS, which will make various changes to State law governing shellfish aquaculture and harvest. Senator Cook, NCGA staff and staff from Marine Fisheries answered questions from Senator's McInnis, Smith, B. Jackson, Rabin, Wade, Alexander, Waddell, Woodard, Newton and Cook.

The Chair recognized those guests who signed up to speak. (See attached listing).

Senator Sanderson asked that all members send follow-up questions to his clerk, Kathy Voss, who will then compile a list of responses from interested parties and distribute, prior to the next meeting, where a vote may be considered.

There being no further business, the meeting adjourned at 10:23 AM.

Norman W. Sanderson
Senator Norman W. Sanderson, Chair

Kathy L. Voss
Kathy L. Voss, Committee Clerk





HOUSE BILL 361: Support Shellfish Industry.

2017-2018 General Assembly

Committee:	Senate Agriculture, Environment, and Natural Resources	Date:	May 30, 2018
Introduced by:	Reps. Shepard, McElraft, White, Strickland	Prepared by:	Jeff Hudson
Analysis of:	PCS to First Edition H361-CSSB-38 [v.1]		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 361 (PCS) would make various changes to State law governing shellfish aquaculture and harvest.*

BACKGROUND: As originally introduced, House Bill 361 would have added the Coastal Crescent Trail to the Mountains-to-Sea Trail. The companion bill to House Bill 361, Senate Bill 244, was enacted into law during the 2017 Regular Session.

BILL ANALYSIS:

SHELLFISH BOTTOM LEASING AMENDMENTS

Section 1.1(a) would make various changes to the shellfish cultivation leasing statute as follows:

- Remove the North Carolina residency requirements for shellfish leasing.
- Provides a new definition of natural shellfish bed that includes a 10 bushels of shellfish per acre threshold. Under current law, G.S. 113-201.1 defines natural shellfish bed as an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.
- Provide that shellfish leasing will be compatible with other uses of marine and estuarine resources near the leased area. Under current law, shellfish leasing must be compatible with other marine and estuarine resources and the statute is silent as to proximity to the shellfish leasing.
- Provide that shellfish leasing will not unreasonably conflict with the riparian rights of adjacent property owners. Under current law, shellfish leasing must not impinge upon the rights of riparian owners.
- Provide a new requirement that shellfish leasing must be a minimum of 100 feet from the shoreline of any private property. The 100-foot minimum would not apply when (i) the adjacent private property is owned by the lease applicant or (ii) the owner of the private property has provided written, notarized consent.
- Provide that shellfish leasing may not occur in waters that have been classified as prohibited, restricted, or conditionally approved closed with respect to shellfish harvesting at the time of filing of the lease application. Under current law, shellfish leasing may not occur in waters that the State Health Director has recommended be closed to shellfish harvest due to pollution.

Ken Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House PCS 361

Page 2

- Provide that acreage limits for shellfish leasing will be as follows:
 - For coastal fishing waters located in and south of Core Sound, no person, business, or family may hold more than 50 acres of shellfish leases.
 - For other coastal fishing waters, no person, business, or family may hold more than 300 acres of shellfish leases.

Under current law, the limit is 50 acres for all coastal fishing waters.

- Provide that upon termination of shellfish leases, the Secretary may either:
 - Re-lease the area to the first qualified applicant to file an application.
 - Designate the area as a Shellfish Aquaculture Enterprise Area.

Under current law, the Secretary must open up the area that was being leased to public use.

Section 1.1(b) would direct the North Carolina Policy Collaboratory (Collaboratory) and the Division of Marine Fisheries of the Department of Environmental Quality (Division) to study and recommend whether a Shellfish Mariculture Commission should be established to oversee shellfish bottom leasing and other aspects of shellfish aquaculture in the State.

These sections would become effective July 1, 2018.

ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS

Section 1.2(a) would establish a new process by which parties, other than the permit applicant, affected by the issuance of a shellfish leasing permit could appeal the permit decision. Such parties could only file a contested case if the new Shellfish Cultivation Lease Review Committee determined that a contested case hearing would be appropriate.

Section 1.2(b) would direct the Chair of the Marine Fisheries Commission to establish the Shellfish Cultivation Lease Review Committee and authorize the Commission to adopt rules for the appeals process.

EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE SITING

Section 1.3(a) would allow for the transport of seed oysters and seed clams from aquaculture operations in prohibited waters unless the Secretary of Environmental Quality determined that it would be a risk to public health. Under current law, such transport is not allowed.

Section 1.3(b) would allow for the issuance of an Under Dock Oyster Culture Permit in polluted waters if the owner of the dock signs a written acknowledgement that the oysters are intended only for restoration purposes and not consumption.

These sections would become effective July 1, 2018.

SHELLFISH AQUACULTURE ENTERPRISE AREAS

Section 1.4(a) and (b) would authorize the Secretary of Environmental Quality to establish Shellfish Aquaculture Enterprise Areas and to issue nontransferable shellfish leases to North Carolina residents

from those Areas. The prohibitions for shellfish leases in Brunswick County and western Core Sound would not apply to Shellfish Aquaculture Enterprise Areas.

MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA

Section 1.5 would provide that until July 1, 2020, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established from the Wrightsville Beach Bridge south to Myrtle Grove Sound.

REVISE OYSTER STUDIES REPORTING DATES

Section 2.1(a) would provide that the study that directs the Chief Sustainability Officer of the University of North Carolina at Chapel Hill to convene a stakeholder working group to study and advance efforts to ecologically restore and achieve economic stability of the shellfish aquaculture industry may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1(b) would provide that the deadline for the North Carolina Policy Collaboratory to prepare and deliver a Shellfish Mariculture Plan may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1(c) would provide that the deadline for the North Carolina Policy Collaboratory and stakeholders to develop plans and recommendations for economic development related to promotion of the State's shellfish harvesting heritage may be extended from December 31, 2018 to June 30, 2019, if the Collaboratory and stakeholders determine that additional time is needed to complete the study.

EFFECTIVE DATE: Except as otherwise provided, the act would become effective when it becomes law.



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

H

D

HOUSE BILL 361

PROPOSED SENATE COMMITTEE SUBSTITUTE H361-CSSB-38 [v.1]

05/29/2018 05:16:22 PM

Short Title: Support Shellfish Industry.

(Public)

Sponsors:

Referred to:

March 16, 2017

A BILL TO BE ENTITLED

AN ACT TO PROVIDE ADDITIONAL SUPPORT FOR THE STATE'S SHELLFISH
INDUSTRY BY REFORMING AND MODERNIZING THE STATUTES GOVERNING
SHELLFISH AND AQUACULTURE BOTTOMLAND LEASING.

The General Assembly of North Carolina enacts:

PART I. SHELLFISH AQUACULTURE REFORMS

SHELLFISH BOTTOM LEASING AMENDMENTS

SECTION 1.1.(a) G.S. 113-202 reads as rewritten:

"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued
prior to January 1, 1966.

(a) To increase the use of suitable areas underlying coastal fishing waters for the
production of shellfish, the Secretary may grant shellfish cultivation leases to persons ~~who reside~~
~~in North Carolina~~ under the terms of this section when the Secretary determines, in accordance
with his duty to conserve the marine and estuarine resources of the State, that the public interest
will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet
the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish
in commercial quantities.
- (2) The area leased must not contain a natural shellfish bed. For purposes of this
subdivision, a "natural shellfish bed" is an area containing at least 10 bushels
of shellfish per acre that does not include a previously leased area terminated
by the Secretary for failure to meet the requirements of this section within the
12 months directly preceding the date of the lease application.
- (3) Cultivation of shellfish in the leased area will be compatible with lawful
utilization by the public of other marine and estuarine ~~resources~~ resources near
the leased area. Other public uses which may be considered include, but are
not limited to, navigation, fishing and recreation.
- (4) Cultivation of shellfish in the leased area will not ~~impinge upon the rights of
riparian owners~~ unreasonably conflict with the riparian rights of adjacent
property owners.
- (4a) The leased area must be located a minimum of 100 feet from the shoreline of
any private property. The 100-foot minimum shall not apply when (i) the
adjacent private property is owned by the lease applicant or (ii) the owner of



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the private property has provided consent in the form of a written and notarized statement.

(5) The area leased must not include an area designated for inclusion in the Department's Shellfish Management Program.

(6) The area leased must not include ~~an area which the State Health Director has recommended be closed to shellfish harvest by reason of pollution.~~ waters that have been classified as prohibited, restricted, or conditionally approved closed with respect to shellfish harvesting at the time of filing of the lease application.

(7) The area leased under a single lease shall not be less than one-half acre or exceed 10 acres, except in areas designated by the Department as Shellfish Aquaculture Enterprise Areas under subsection (s) of this section.

...

(c) No person, including a corporate entity, or single family unit may acquire and hold by lease, lease renewal, or purchase shellfish cultivation leases covering more than 50 acres of public bottoms under shellfish cultivation leases. ~~the acreage of public bottoms set forth in this subsection.~~ For purposes of this subsection, the number of acres of leases held by a person includes acres held by a corporation in which the person holds an interest. The Marine Fisheries Commission may adopt rules to require the submission of information necessary to ensure compliance with this subsection.

(1) With respect to coastal fishing waters located in and south of Core Sound, the limit is 50 acres. For purposes of this subdivision, Core Sound shall have the definition set forth in Section 1(b) of Chapter 44 of the 1993 Session Laws.

(2) With respect to other coastal fishing waters, the limit is 300 acres.

(d) Any person desiring to apply for a lease must make written application to the Secretary on forms prepared by the Department containing such information as deemed necessary to determine the desirability of granting or not granting the lease requested. Except in the case of renewal leases, the application must be accompanied by a map or diagram made at the expense of the applicant, showing the area proposed to be leased.

...

(k) Except as restricted by this Subchapter, leaseholds granted under this section are to be treated as if they were real property and are subject to all laws relating to taxation, sale, devise, inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases properly acknowledged and probated are eligible for recordation in the same manner as instruments conveying an estate in real property. Within 30 days after transfer of beneficial ownership of all or any portion of or interest in a leasehold to another, the new owner must notify the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. ~~In the event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the lease.~~

(l) Upon receipt of notice by the Secretary of any of the following occurrences, he must commence action to terminate the leasehold:

(1) Failure to pay the annual rent in advance.

(2) Failure to file information required by the Secretary upon annual remittance of rental or filing false information on the form required to accompany the annual remittance of rental.

(3) Failure by new owner to report a transfer of beneficial ownership of all or any portion of or interest in the leasehold.

(4) Failure to mark the boundaries in the leasehold and to keep them marked as required in the rules of the Marine Fisheries Commission.

(5) Failure to utilize the leasehold on a continuing basis for the commercial production of shellfish.

- (6) ~~Transfer of all or part of the beneficial ownership of a leasehold to a nonresident.~~
- (7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.
- (8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

...

(n) Upon final termination of any leasehold, ~~the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. the~~ Secretary may either (i) re-lease the area to the first qualified applicant to file an application following the procedures set forth in this Article for renewal of a lease or (ii) designate the area as a Shellfish Aquaculture Enterprise Area under subsection (s) of this section. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers and gear denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers ~~thereof, remove the abandoned structure and~~ markers and gear, have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and gear and the State may bring suit to recover ~~the costs thereof.~~ costs, including legal fees.

...."

SECTION 1.1.(b) As part of the Shellfish Mariculture Plan required by Section 13.13 of S.L. 2017-57, the North Carolina Policy Collaboratory and the Division of Marine Fisheries shall study and recommend whether the establishment of a Shellfish Mariculture Commission to oversee shellfish bottom leasing and other aspects of shellfish aquaculture would substantially advance and promote the State's shellfish aquaculture industry. The recommendation shall include proposals for additional or reallocated funding as well as proposed legislation necessary to implement the recommendation.

SECTION 1.1.(c) This section becomes effective July 1, 2018.

ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS

SECTION 1.2.(a) G.S. 113-202(g) reads as rewritten:

"(g) After consideration of the public comment received and any additional investigations the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person or by certified or registered mail of the decision on the lease application. The Secretary shall also notify persons who submitted comments at the public hearing and requested notice of the lease decision. An applicant who is dissatisfied with the Secretary's decision ~~or another person aggrieved by the decision~~ may commence a contested case by filing a petition under G.S. 150B-23 within ~~20~~ 30 days after receiving notice of the Secretary's decision. In the event the Secretary's decision is a modification to which the applicant agrees, the lease applicant must furnish an amended map or diagram before the lease can be issued by the Secretary. A person other than the applicant who is aggrieved by the Secretary's decision may file a petition for a contested case hearing only if the Shellfish Cultivation Lease Review Committee established pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made. A determination of the appropriateness of a contested case shall be made within 30 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

- (1) Has alleged that the decision is contrary to a statute or rule;
- (2) Is directly affected by the decision; and
- (3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Review Committee determines that a contested case is appropriate, the petition for a contested case shall be filed within 30 days after the Review Committee makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Review Committee erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

The applicant or another person aggrieved by a final decision under this section may appeal the decision to the superior court of the county where the proposed lease or any part thereof is located, pursuant to the provisions of Chapter 150B of the General Statutes. "

SECTION 1.2.(b) G.S. 143B-289.57 is amended by adding a new subsection to read:

"(f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202. The Committee shall include one Commission member, who shall serve as the hearing officer, and two public members. One public member shall have expertise or other relevant experience in shellfish aquaculture, and the other public member shall have expertise or other relevant experience with respect to coastal property or property assessment. The Commission shall adopt rules to establish procedures for the appeals and may adopt temporary rules."

EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE SITING

SECTION 1.3.(a) G.S. 113-203 reads as rewritten:

"§ 113-203. Transplanting of oysters and clams.

...

(a2) It is unlawful to do any of the following:

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.
- (2) When transplanting seed oysters less than 25 millimeters in their largest dimension.

...."

SECTION 1.3.(b) G.S. 113-210(c) reads as rewritten:

"(c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under Dock Oyster Culture Permit only if the Director determines all of the following:

- (1) ~~That~~If the dock or pier is not located in an area that the State Health Director has recommended be closed to shellfish harvest due to pollution or that has been closed to harvest by statute, rule, or proclamation due to suspected pollution-pollution, the owner of the dock or pier has signed a written acknowledgement that oysters produced under the permit are intended for restoration purposes and not for consumption.

...."

SECTION 1.3.(c) This section becomes effective July 1, 2018.

SHELLFISH AQUACULTURE ENTERPRISE AREAS

SECTION 1.4.(a) G.S. 113-201.1 is amended by adding a new subdivision to read:

- "(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

SECTION 1.4.(b) G.S. 113-202 is amended by adding a new subsection to read:

"(s) To facilitate shellfish aquaculture opportunities through advanced siting and preapprovals from relevant federal and State agencies, the Secretary may establish Shellfish Aquaculture Enterprise Areas. The Secretary shall only issue nontransferrable leases to residents of North Carolina within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to the State and be made available to other applicants. The geographical restrictions on leasing set forth in Section 2 of Chapter 876 of the 1967 Session Laws and Section 1(c) of S.L. 2003-64 shall not apply to Shellfish Aquaculture Enterprise Areas established under this subsection."

MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA

SECTION 1.5. Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed for all those waters bordered in the north by a line beginning at a point 34° 13.10221' N - 77° 48.79544' W on the mainland near the Wrightsville Beach Bridge; running southeasterly to a point 34° 12.51584' N - 77° 47.81847' W on Wrightsville Beach; and bordered in the south by a line beginning at a point 34° 07.77029' N - 77° 52.08320' W on the mainland near Peden Point; running easterly near IWW Marker #141 to a point 34° 07.60069' N - 77° 51.03281' on Masonboro Island, to include the waters of Masonboro Sound and Greenville Sound. The moratorium shall expire July 1, 2020.

PART II. REVISE OYSTER STUDIES REPORTING DATES

SECTION 2.1.(a) Section 14.11(f) of S.L. 2016-94 reads as rewritten:

"**SECTION 14.11.(f)** The University of North Carolina at Chapel Hill shall report the results of its study, including any recommendations and suggested legislation needed to implement the recommendations, to the Fiscal Research Division, the Environmental Review Commission, and the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than ~~December 31, 2018.~~December 31, 2018, which may be extended to June 30, 2019, by written notice to the Fiscal Research Division if the University determines additional time is needed to complete the study."

SECTION 2.1.(b) Section 13.13(b) of S.L. 2017-57 reads as rewritten:

"**SECTION 13.13.(b)** In addition to the study required by Section 14.11(d) of S.L. 2016-94, as amended by subsection (a) of this section, the North Carolina Policy Collaboratory shall also prepare and deliver a Shellfish Mariculture Plan by ~~December 31, 2018.~~December 31, 2018,

1 which may be extended to June 30, 2019, by written notice to the Fiscal Research Division if the
2 Collaboratory determines additional time is needed to complete the study. Except as otherwise
3 prohibited by State or federal law, all State entities shall provide all information, resources, and
4 support deemed relevant by the Collaboratory for the creation of the Shellfish Mariculture Plan.
5 The plan shall be submitted to the Joint Legislative Oversight Committee on Agriculture and
6 Natural and Economic Resources, the chairs of the House of Representatives Appropriations
7 Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate
8 Appropriations Committee on Agriculture, Natural, and Economic Resources, and the Fiscal
9 Research Division and shall consider the following:

10"

11 **SECTION 2.1.(c)** Section 13.13(d) of S.L. 2017-57, as amended by Section 4.1 of
12 S.L. 2017-197, reads as rewritten:

13 "SECTION 13.13.(d) The North Carolina Policy Collaboratory, in consultation with the
14 Economic Development Partnership of North Carolina, the Department of Commerce, and the
15 Department of Natural and Cultural Resources, and any other stakeholders the Partnership deems
16 relevant, including the North Carolina Tourism Advisory Board, the North Carolina Restaurant
17 and Lodging Association, the North Carolina Shellfish Growers Association, North Carolina Sea
18 Grant, and the North Carolina Fisheries Association, shall develop conceptual plans and
19 recommendations for economic development related to promotion of the State's shellfish
20 harvesting heritage. The plans and recommendations shall include the creation of a North
21 Carolina Oyster Trail and ~~a North Carolina Oyster Festival.~~ other public engagement events. Plan
22 development shall be congruent with the ongoing work of the North Carolina Policy
23 Collaboratory and its stakeholder group as described in this section and shall include
24 recommendations of locations, oversight, governmental support, cost, and timing of when such
25 initiatives should be launched in the future, including, but not limited to, achieving production
26 and acreage benchmarks, in addition to any other information deemed relevant for inclusion. The
27 Collaboratory's recommendations shall be provided no later than December 31, 2018, to the Joint
28 Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the
29 chairs of the House of Representatives Appropriations Committee on Agriculture and Natural
30 and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture,
31 Natural, and Economic Resources, and the Fiscal Research Division. The due date for the report
32 may be extended to June 30, 2019, by written notice to the Fiscal Research Division if the
33 Collaboratory and stakeholders determine that additional time is needed to complete the study.
34 This study, as it may be subsequently amended after submission, shall be included as an appendix
35 to the Shellfish Mariculture Plan required by subsection (b) of this section."

36 37 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

38 **SECTION 3.1.** If any section or provision of this act is declared unconstitutional or
39 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
40 the part declared to be unconstitutional or invalid.

41 **SECTION 3.2.** Except as otherwise provided, this act is effective when it becomes
42 law.



SENATE COMMITTEE

ON

AGRICULTURE/NATURAL/ECONOMIC RESOURCES

MAY 30, 2018

9:00 AM

SERGEANT-AT ARMS

FRANCES PATTERSON

TERRY EDMONDSON

STEVE MCKAIG



Senate Pages Attending

COMMITTEE: Agriculture ROOM: 1027
DATE: 5-30 TIME: 9 AM

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

Page Name	Hometown	Sponsoring Senator
1. Taylor Simonds SY-monds	Murphy	Jim Davis
2. Taylor Rhodens	Four Oaks	Brent Jackson
3. Forbes Weaver	Winston	Krawiec
4. Lane Russell	Raleigh	Berger
5. Marleigh Pugar-McDonald	Durham	Woodard
6.		
7.		
8.		

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



3 minutes

SPEAKER REGISTRATION SHEET

Ag/ Nat Resources

05-30-18

Name of Committee

Date

SPEAKERS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
✓ Kris Cahoonhose	Hyde
✓ Glenn Skinner	NCFA
✓ Steve Weeks	NCFA
✓ BRADLEY STYRON	NCFA
✓ Adam Tyler	slow down
✓ Rob Hamme	NC Coastal Federation
✓ Tom Bean ^{Bean.}	NCWF slow down what does in recordable
✓ Jon Steeves	Wanchese Fish Co
✓ Joey Daniels	Wanchese Fish
✓ Jay Styron	NC SGA
✓ Jerry Schill	
DMF?	
Laura Killian	AG Dept

3 min limit - until time is exhausted.
per- N.S.





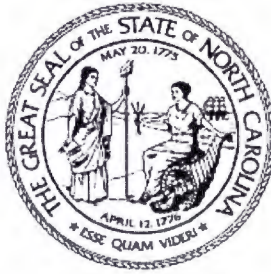
Ag/Natural Resources

May 30, 2018

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Shrikor Nanna	DEQ
John Buybee	NP
SUSAN VICK	DUKE ENERGY
Jon Steeves	Wanchese Fish Co
John Little	MWC
Joey Daniels	Wanchese Fish
Sarah McQuillan	Kelros Gov Affairs
DAVID SNEED	CCA NC
Amith Mondavilli	NC SPMA
DAN CRAWFORD	NCLCV
Andrew Dorahe	NCLCV
Chris Kleypas	NCLCV
CARLY CHAMBERS	NCLCV
John Feldmann	NCCN
Sarah Collins	NCLM
Justin Clifton	Governor
Pierce Shipsey	Tascon Deans + Associates





Ag/Natural Resources

May 30, 2018

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Isaac Nicholls	Policy Office
Terry Schill	NC Fisheries Assoc.
Glenn Skinner	NC Fisheries Assoc
Adam Tyler	SELF
Laura Kilian	NC DNR & CS
Doug Lashley	NC STA
Doug Howey	NCPem
Tom Bean	NCWF
Emily Hoffman	NCCN
Corey Pilson	NCCN
Christina Kochanski	NCCN
J. P. Pate	NCCMA
Nick Billman	WM
Mr. Miller ASBUN	SEU
Mr. J. P. Pate	NC SGA
Mr. B. Hamner	ALA
Steve Murphy	NC DMF/DEQ
Nancy D. Fish	NC DMF/DEQ







Senate Committee on Agriculture/Environment/Natural Resources
Tuesday, June 5, 2018, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 361	Coastal Crescent Trail/State Parks System. Votes will be taken	Representative Shepard Representative McElraft Representative White Representative Strickland
SB 711	NC Farm Act of 2018. Votes will be taken	Senator B. Jackson Senator Cook Senator Sanderson

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Tuesday, June 05, 2018

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

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

SB 711

NC Farm Act of 2018.

Draft Number:	S711-PCS15301-TQxf-5
Sequential Referral:	Finance
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Brent Jackson will handle SB 711



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Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 5, 2018 at 9:00 AM
Room 1027/1128 of the Legislative Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:03AM on June 5, 2018, in Room 1027/1128 of the Legislative Building. 14 members were present.

Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Terry Barnhardt, Tom Burroughs and Frances Patterson and Pages Morgan Moore, Wallace, sponsored by Senator B. Jackson; Gray Perry, Washington, sponsored by Senator Cook; Bailey Parker, Raleigh, sponsored by Senator Alexander; Beau Seate, Charlotte, sponsored by Senator J. Jackson and Anslee McLamb, Dunn, sponsored by Senator Brown..

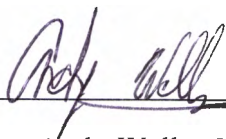
SB 711 NC Farm Act of 2018 (Senator B. Jackson/Senator Cook/Senator Sanderson)

Senator B. Jackson presented the bill. House Bill 711 is an act to make various changes to the agricultural laws. Senator Wells introduced Steve Troxler, North Carolina Commissioner of Agriculture. Commissioner Troxler answered questions from Senator Jeff Jackson and Senator Erica D. Smith. Commissioner Troxler introduced Joe Reardon, the Assistant Commissioner for Consumer Protection with the Department of Agriculture to speak on the bill. Commissioner Troxler and Deputy Commissioner Reardon answered questions from Senator McInnis, Senator Waddell, Senator Woodard and Senator Sanderson. Senator Newton motions for a favorable report – unfavorable to the bill but favorable to the Committee Substitute with a serial referral to Finance.

HB 361 Support Shellfish Industry (Rep. David Lewis)

Senator Wells presented the bill. HB 361 would make various changes to State law governing shellfish aquaculture and harvest. Senator Wells recognized Senator Cook to explain his amendment. Senator Smith asked Senator Cook about his amendment and he referred her to Jeff Hudson, Legislative Services Division. Senator Cook fielded questions from Senator Sanderson and Senator Barrett. Senator Wells introduced Steve Murphy, Division Director of Marine Fisheries to address questions. Senator Wade made a motion to approve the amendment. The amendment passed. No vote was taken on the bill.

There being no further business, the meeting adjourned at 9:55 AM.

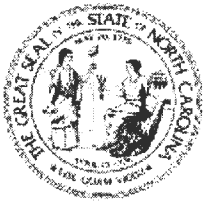


Senator Andy Wells, Chair Presiding



Linda Wentz, Committee Clerk





HOUSE BILL 361: Support Shellfish Industry.

This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.

2017-2018 General Assembly

Committee:	Senate Agriculture, Environment, and Natural Resources	Date:	May 30, 2018
Introduced by:	Reps. Shepard, McElraft, White, Strickland	Prepared by:	Jeff Hudson
Analysis of:	PCS to First Edition H361-CSSB-38 [v.1]		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute for House Bill 361 (PCS) would make various changes to State law governing shellfish aquaculture and harvest.*

BACKGROUND: As originally introduced, House Bill 361 would have added the Coastal Crescent Trail to the Mountains-to-Sea Trail. The companion bill to House Bill 361, Senate Bill 244, was enacted into law during the 2017 Regular Session.

BILL ANALYSIS:

SHELLFISH BOTTOM LEASING AMENDMENTS

Section 1.1(a) would make various changes to the shellfish cultivation leasing statute as follows:

- Remove the North Carolina residency requirements for shellfish leasing.
- Provides a new definition of natural shellfish bed that includes a 10 bushels of shellfish per acre threshold. Under current law, G.S. 113-201.1 defines natural shellfish bed as an area of public bottom where oysters, clams, scallops, mussels or other shellfish are found to be growing in sufficient quantities to be valuable to the public.
- Provide that shellfish leasing will be compatible with other uses of marine and estuarine resources near the leased area. Under current law, shellfish leasing must be compatible with other marine and estuarine resources and the statute is silent as to proximity to the shellfish leasing.
- Provide that shellfish leasing will not unreasonably conflict with the riparian rights of adjacent property owners. Under current law, shellfish leasing must not impinge upon the rights of riparian owners.
- Provide a new requirement that shellfish leasing must be a minimum of 100 feet from the shoreline of any private property. The 100-foot minimum would not apply when (i) the adjacent private property is owned by the lease applicant or (ii) the owner of the private property has provided written, notarized consent.
- Provide that shellfish leasing may not occur in waters that have been classified as prohibited, restricted, or conditionally approved closed with respect to shellfish harvesting at the time of filing of the lease application. Under current law, shellfish leasing may not occur in waters that the State Health Director has recommended be closed to shellfish harvest due to pollution.

Karen Cochrane-Brown
Director



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Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.

House PCS 361

Page 2

- Provide that acreage limits for shellfish leasing will be as follows:
 - For coastal fishing waters located in and south of Core Sound, no person, business, or family may hold more than 50 acres of shellfish leases.
 - For other coastal fishing waters, no person, business, or family may hold more than 300 acres of shellfish leases.

Under current law, the limit is 50 acres for all coastal fishing waters.

- Provide that upon termination of shellfish leases, the Secretary may either:
 - Re-lease the area to the first qualified applicant to file an application.
 - Designate the area as a Shellfish Aquaculture Enterprise Area.

Under current law, the Secretary must open up the area that was being leased to public use.

Section 1.1(b) would direct the North Carolina Policy Collaboratory (Collaboratory) and the Division of Marine Fisheries of the Department of Environmental Quality (Division) to study and recommend whether a Shellfish Mariculture Commission should be established to oversee shellfish bottom leasing and other aspects of shellfish aquaculture in the State.

These sections would become effective July 1, 2018.

ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS

Section 1.2(a) would establish a new process by which parties, other than the permit applicant, affected by the issuance of a shellfish leasing permit could appeal the permit decision. Such parties could only file a contested case if the new Shellfish Cultivation Lease Review Committee determined that a contested case hearing would be appropriate.

Section 1.2(b) would direct the Chair of the Marine Fisheries Commission to establish the Shellfish Cultivation Lease Review Committee and authorize the Commission to adopt rules for the appeals process.

EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE SITING

Section 1.3(a) would allow for the transport of seed oysters and seed clams from aquaculture operations in prohibited waters unless the Secretary of Environmental Quality determined that it would be a risk to public health. Under current law, such transport is not allowed.

Section 1.3(b) would allow for the issuance of an Under Dock Oyster Culture Permit in polluted waters if the owner of the dock signs a written acknowledgement that the oysters are intended only for restoration purposes and not consumption.

These sections would become effective July 1, 2018.

SHELLFISH AQUACULTURE ENTERPRISE AREAS

Section 1.4(a) and (b) would authorize the Secretary of Environmental Quality to establish Shellfish Aquaculture Enterprise Areas and to issue nontransferable shellfish leases to North Carolina residents

House PCS 361

Page 3

from those Areas. The prohibitions for shellfish leases in Brunswick County and western Core Sound would not apply to Shellfish Aquaculture Enterprise Areas.

MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA

Section 1.5 would provide that until July 1, 2020, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established from the Wrightsville Beach Bridge south to Myrtle Grove Sound.

REVISE OYSTER STUDIES REPORTING DATES

Section 2.1(a) would provide that the study that directs the Chief Sustainability Officer of the University of North Carolina at Chapel Hill to convene a stakeholder working group to study and advance efforts to ecologically restore and achieve economic stability of the shellfish aquaculture industry may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1(b) would provide that the deadline for the North Carolina Policy Collaboratory to prepare and deliver a Shellfish Mariculture Plan may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1(c) would provide that the deadline for the North Carolina Policy Collaboratory and stakeholders to develop plans and recommendations for economic development related to promotion of the State's shellfish harvesting heritage may be extended from December 31, 2018 to June 30, 2019, if the Collaboratory and stakeholders determine that additional time is needed to complete the study.

EFFECTIVE DATE: Except as otherwise provided, the act would become effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H

1

HOUSE BILL 361

Short Title: Coastal Crescent Trail/State Parks System. (Public)

Sponsors: Representatives Shepard, McElraft, White, and Strickland (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: State and Local Government II

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ADD THE COASTAL CRESCENT TRAIL TO THE MOUNTAINS-TO-SEA
3 STATE TRAIL.

4 The General Assembly of North Carolina enacts:

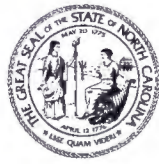
5 **SECTION 1.** The Department of Natural and Cultural Resources shall add the
6 Coastal Crescent Trail through Johnston, Sampson, Cumberland, Bladen, Pender, and Onslow
7 Counties, as well as other counties designated by the Secretary of the Department of Natural
8 and Cultural Resources, to the Mountains-to-Sea State Park Trail unit of the State Parks System
9 as provided in G.S. 143B-135.54(b). The Coastal Crescent route of the Mountains-to-Sea Trail
10 shall include public and private lands as authorized by G.S. 143B-135.98. The Secretary and
11 staff of the Department of Natural and Cultural Resources shall work cooperatively with the
12 staff and volunteers of Friends of the Mountains-to-Sea Trail to plan and develop the Coastal
13 Crescent route.

14 **SECTION 2.** No later than October 1, 2017, the Department of Natural and
15 Cultural Resources shall amend the State Parks System Plan required by G.S. 143B-135.48 to
16 reflect the addition of the Coastal Crescent Trail to the Mountains-to-Sea State Park Trail.

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







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Amends Title [NO]
H361-CSSB-38 [v.1]

Date _____, 2018

Senator Cook

moves to amend the proposed committee substitute on page 1, line 9 through page 5, line 26,
by rewriting the lines to read:

"SHELLFISH BOTTOM LEASING AMENDMENTS

SECTION 1.1.(a) G.S. 113-202 reads as rewritten:

**"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued
prior to January 1, 1966.**

(a) To increase the use of suitable areas underlying coastal fishing waters for the
production of shellfish, the Secretary may grant shellfish cultivation leases to persons ~~who reside~~
~~in North Carolina~~ under the terms of this section when the Secretary determines, in accordance
with his duty to conserve the marine and estuarine resources of the State, that the public interest
will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet
the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish
in commercial quantities.
- (2) The area leased must not contain a natural shellfish bed. For purposes of this
subdivision, a "natural shellfish bed" is an area containing at least 10 bushels
of shellfish per acre that does not include a previously leased area terminated
by the Secretary for failure to meet the requirements of this section within the
12 months directly preceding the date of the lease application.
- (3) Cultivation of shellfish in the leased area will be compatible with lawful
utilization by the public of other marine and estuarine ~~resources~~ resources near
the leased area. Other public uses which may be considered include, but are
not limited to, navigation, fishing and recreation.
- (4) Cultivation of shellfish in the leased area will not ~~impinge upon the rights of
riparian owners~~ unreasonably conflict with the riparian rights of adjacent
property owners.
- (4a) The leased area must be located a minimum of 100 feet from the shoreline of
any private property. The 100-foot minimum shall not apply when (i) the
adjacent private property is owned by the lease applicant or (ii) the owner of
the private property has provided consent in the form of a written and
notarized statement.



★ H 3 6 1 - A S B - 7 9 - V - 3 ★

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- 1 (5) The area leased must not include an area designated for inclusion in the
2 Department's Shellfish Management Program.
- 3 (6) The area leased must not include ~~an area which the State Health Director has~~
4 ~~recommended be closed to shellfish harvest by reason of pollution.~~ waters that
5 have been classified as prohibited, restricted, or conditionally approved closed
6 with respect to shellfish harvesting at the time of filing of the lease application.
- 7 (7) The area leased under a single lease shall be as follows:
- 8 a. For coastal fishing waters located in and south of Core Sound, the area
9 leased under a single lease shall not be less than one-half acre or
10 exceed 10 acres, except in areas designated by the Department as
11 Shellfish Aquaculture Enterprise Areas under subsection (s) of this
12 section. For purposes of this subdivision, Core Sound shall have the
13 definition set forth in Section 1(b) of Chapter 44 of the 1993 Session
14 Laws.
- 15 b. For other coastal fishing waters, the area leased under a single lease
16 shall not be less than one-half acre or exceed 50 acres, except in areas
17 designated by the Department as Shellfish Aquaculture Enterprise
18 Areas under subsection (s) of this section.

19 (b) The Secretary may delete any part of an area proposed for lease or may condition a
20 lease to protect the public interest with respect to the factors enumerated in subsection (a) of this
21 section. The Secretary may not grant a new lease in an area heavily used for recreational
22 purposes. Except as prohibited by federal law, the Secretary shall not exclude any area from
23 leasing solely on the basis that the area contains submerged aquatic vegetation and shall make
24 specific findings based on the standards set forth in subsection (a) of this section prior to reaching
25 a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged
26 aquatic vegetation.

27 (c) No person, including a corporate entity, or single family unit may acquire and hold
28 by lease, lease renewal, or purchase shellfish cultivation leases covering more than 50 acres of
29 ~~public bottoms under shellfish cultivation leases.~~ the acreage of public bottoms set forth in this
30 subsection. For purposes of this subsection, the number of acres of leases held by a person
31 includes acres held by a corporation in which the person holds an interest. The Marine Fisheries
32 Commission may adopt rules to require the submission of information necessary to ensure
33 compliance with this subsection.

- 34 (1) With respect to coastal fishing waters located in and south of Core Sound, the
35 limit is 50 acres. For purposes of this subdivision, Core Sound shall have the
36 definition set forth in Section 1(b) of Chapter 44 of the 1993 Session Laws.
- 37 (2) With respect to other coastal fishing waters, the limit is 300 acres.

38 (d) Any person desiring to apply for a lease must make written application to the
39 Secretary on forms prepared by the Department containing such information as deemed
40 necessary to determine the desirability of granting or not granting the lease requested. Except in
41 the case of renewal leases, the application must be accompanied by a map or diagram made at
42 the expense of the applicant, showing the area proposed to be leased. A person who does not

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1 reside in North Carolina shall be eligible to apply for a lease only if the person has registered
2 with Secretary of State pursuant to Article 4 of Chapter 55D of the General Statutes.

3 (d1) The map or diagram must conform to standards prescribed by the Secretary
4 concerning accuracy of map or diagram and the amount of detail that must be shown. If on the
5 basis of the application information and map or diagram the Secretary deems that granting the
6 lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial
7 lease applications, must order an investigation of the bottom proposed to be leased. The
8 investigation is to be made by the Secretary or his authorized agent to determine whether the area
9 proposed to be leased is consistent with the standards in subsection (a) of this section and any
10 other applicable standards under this Article and the rules of the Marine Fisheries Commission.
11 In the event the Secretary finds the application inconsistent with the applicable standards, the
12 Secretary shall deny the application or propose that a conditional lease be issued that is consistent
13 with the applicable standards. In the event the Secretary authorizes amendment of the application,
14 the applicant must furnish a new map or diagram meeting requisite standards showing the area
15 proposed to be leased under the amended application. At the time of making application for an
16 initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

17 (e) The area of bottom applied for in the case of an initial lease or amended initial lease
18 must be as compact as possible, taking into consideration the shape of the body of water, the
19 consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a
20 sufficient distance from any known natural shellfish bed to prevent the likelihood of disputes
21 arising between the leaseholder and members of the public taking shellfish from the natural bed.

22 (f) Within a reasonable time after receipt of an application that complies with subsection
23 (d), the Secretary shall notify the applicant of the intended action on the lease application. If the
24 intended action is approval of the application as submitted or approval with a modification to
25 which the applicant agrees, the Secretary shall conduct a public hearing in the county where the
26 proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease
27 in a newspaper of general circulation in the county in which the proposed leasehold lies. The first
28 publication must precede the public hearing by more than 20 days; the second publication must
29 follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient
30 description of the area of the proposed leasehold that its boundaries may be established with
31 reasonable ease and certainty and must also contain the date, hour and place of the hearing.

32 (g) After consideration of the public comment received and any additional investigations
33 the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person
34 or by certified or registered mail of the decision on the lease application. The Secretary shall also
35 notify persons who submitted comments at the public hearing and requested notice of the lease
36 decision. An applicant who is dissatisfied with the Secretary's decision ~~or another person~~
37 ~~aggrieved by the decision~~ may commence a contested case by filing a petition under
38 G.S. 150B-23 within ~~20-30~~ days after receiving notice of the Secretary's decision. In the event
39 the Secretary's decision is a modification to which the applicant agrees, the lease applicant must
40 furnish an amended map or diagram before the lease can be issued by the Secretary. A person
41 other than the applicant who is aggrieved by the Secretary's decision may file a petition for a
42 contested case hearing only if the Shellfish Cultivation Lease Review Committee established
43 pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a

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determination of the appropriateness of a contested case hearing shall be made in writing and received by the Review Committee within 30 days after the disputed decision is made. A determination of the appropriateness of a contested case shall be made within 30 days after a request for a determination is received and shall be based on whether the person seeking to commence a contested case:

(1) Has alleged that the decision is contrary to a statute or rule;

(2) Is directly affected by the decision; and

(3) Has alleged facts or made legal arguments that demonstrate that the request for the hearing is not frivolous.

If the Review Committee determines that a contested case is appropriate, the petition for a contested case shall be filed within 30 days after the Review Committee makes its determination. A determination that a person may not commence a contested case is a final agency decision and is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on judicial review, the court determines that the Review Committee erred in determining that a contested case would not be appropriate, the court shall remand the matter for a contested case hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in effect at the time of the commencement of the contested case.

The applicant or another person aggrieved by a final decision under this section may appeal the decision to the superior court of the county where the proposed lease or any part thereof is located, pursuant to the provisions of Chapter 150B of the General Statutes.

(h) Repealed by Session Laws 1993, c. 466, s. 1.

(i) After a lease application is approved by the Secretary, the applicant shall submit to the Secretary information sufficient to define the bounds of the area approved for leasing with markers in accordance with the rules of the Commission. The information shall conform to standards prescribed by the Secretary concerning accuracy and the amount of detail to be shown. When information is submitted, the boundaries are marked and all fees and rents due in advance are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing the area under lease or by combining contiguous leases without increasing the total area leased. The information required by this subsection may be based on coordinate information produced using a device equipped to receive global positioning system data.

(j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon on the first day of July following the tenth anniversary of the granting of the lease. Renewal leases are issued for a period of 10 years from the time of expiration of the previous lease. At the time of making application for renewal of a lease, the applicant must pay a filing fee of one hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00) per acre until noon on the first day of July following the first anniversary of the lease. Thereafter, for initial leases and from the beginning for renewals of leases entered into after that date, the rental is ten dollars (\$10.00) per acre per year. Rental must be paid annually in advance prior to the first day of July each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left until the first day of July must be paid in advance at the rate of one dollar (\$1.00) per acre per

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1 year; then, on or before the first day of July next, the lessee must pay the rental for the next full year.

3 (k) Except as restricted by this Subchapter, leaseholds granted under this section are to
4 be treated as if they were real property and are subject to all laws relating to taxation, sale, devise,
5 inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases
6 properly acknowledged and probated are eligible for recordation in the same manner as
7 instruments conveying an estate in real property. Within 30 days after transfer of beneficial
8 ownership of all or any portion of or interest in a leasehold to another, the new owner must notify
9 the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. ~~In the~~
10 ~~event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the~~
11 ~~lease.~~

12 (l) Upon receipt of notice by the Secretary of any of the following occurrences, he must
13 commence action to terminate the leasehold:

- 14 (1) Failure to pay the annual rent in advance.
- 15 (2) Failure to file information required by the Secretary upon annual remittance
16 of rental or filing false information on the form required to accompany the
17 annual remittance of rental.
- 18 (3) Failure by new owner to report a transfer of beneficial ownership of all or any
19 portion of or interest in the leasehold.
- 20 (4) Failure to mark the boundaries in the leasehold and to keep them marked as
21 required in the rules of the Marine Fisheries Commission.
- 22 (5) Failure to utilize the leasehold on a continuing basis for the commercial
23 production of shellfish.
- 24 (6) ~~Transfer of all or part of the beneficial ownership of a leasehold to a~~
25 ~~nonresident.~~
- 26 (7) Substantial breach of compliance with the provisions of this Article or of rules
27 of the Marine Fisheries Commission governing use of the leasehold.
- 28 (8) Failure to comply with the training requirements established by the Marine
29 Fisheries Commission pursuant to G.S. 113-201(c).

30 (11) The Marine Fisheries Commission is authorized to make rules defining commercial
31 production of shellfish, based upon the productive potential of particular areas climatic or
32 biological conditions at particular areas or particular times, availability of seed shellfish,
33 availability for purchase by lessees of shells or other material to which oyster spat may attach,
34 and the like. Commercial production may be defined in terms of planting effort made as well as
35 in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a
36 diligent effort to effectively and efficiently manage his lease according to accepted standards and
37 practices in such management, and because of reasons beyond his control, such as acts of God,
38 such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission
39 under the provisions of this subsection, his leasehold shall not be terminated under subdivision
40 (5) of subsection (l) of this section.

41 (m) In the event the leaseholder takes steps within 30 days to remedy the situation upon
42 which the notice of intention to terminate was based and the Secretary is satisfied that
43 continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary

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1 may discontinue termination procedures. Where there is no discontinuance of termination
2 procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23
3 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not
4 initiate a contested case, or the final decision upholds termination, the Secretary must send a final
5 letter of termination to the leaseholder. The final letter of termination may not be mailed sooner
6 than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or
7 of the final agency decision, as appropriate. The lease is terminated effective at midnight on the
8 day the final notice of termination is served on the leaseholder. The final notice of termination
9 may not be issued pending hearing of a contested case initiated by the leaseholder.

10 Service of any notice required in this subsection may be accomplished by certified mail,
11 return receipt requested; personal service by any law-enforcement officer; or upon the failure of
12 these two methods, publication. Service by publication shall be accomplished by publishing such
13 notices in a newspaper of general circulation within the county where the lease is located for at
14 least once a week for three successive weeks. The format for notice by publication shall be
15 approved by the Attorney General.

16 (n) Upon final termination of any leasehold, ~~the bottom in question is thrown open to the~~
17 ~~public for use in accordance with laws and rules governing use of public grounds generally. the~~
18 Secretary may either (i) re-lease the area to the first qualified applicant to file an application
19 following the procedures set forth in this Article for renewal of a lease or (ii) designate the area
20 as a Shellfish Aquaculture Enterprise Area under subsection (s) of this section. Within 30 days
21 of final termination of the leasehold, the former leaseholder shall remove all abandoned markers
22 and gear denominating the area of the leasehold as a private bottom. The State may, after 10 days'
23 notice to the owner of the abandoned markers thereof, remove the abandoned structure and
24 markers and gear, have the area cleaned up. The cost of such removal and cleanup shall be
25 payable by the owner of the abandoned markers and gear and the State may bring suit to recover
26 the costs thereof, costs, including legal fees.

27 (o) Every year between January 1 and February 15 the Secretary must mail to all
28 leaseholders a notice of the annual rental due and include forms designed by him for determining
29 the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and
30 the amount of harvest gathered. Such forms may contain other pertinent questions relating to the
31 utilization of the leasehold in the best interests of the shellfish culture of the State, and must be
32 executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his
33 agent executing such forms for him who knowingly makes a false statement on such forms is
34 guilty of a Class 1 misdemeanor.

35 (p) All leases and renewal leases granted after the effective date of this Article are made
36 subject to this Article and to reasonable amendment of governing statutes, rules of the Marine
37 Fisheries Commission, and requirements imposed by the Secretary or his agents in regulating the
38 use of the leasehold or in processing applications of rentals. This includes such statutory increase
39 in rentals as may be necessitated by changing conditions and refusal to renew lease after
40 expiration, in the discretion of the Secretary. No increase in rentals, however, may be given
41 retroactive effect.

42 The General Assembly declares it to be contrary to public policy to the oyster and clam
43 bottoms which were leased prior to January 1, 1966, and which are not being used to produce

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1 oysters and clams in commercial quantities to continue to be held by private individuals, thus
2 depriving the public of a resource which belongs to all the people of the State. Therefore, when
3 the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be
4 heard, that oysters or clams are not being produced in commercial quantities, due to the lessee's
5 failure to make diligent effort to produce oysters and clams in commercial quantities, the
6 Secretary may decline to renew, at the end of the current term, any oyster or clam bottom lease
7 which was executed prior to January 1, 1966. The lessee may appeal the denial of the Secretary
8 to renew the lease by initiating a contested case pursuant to G.S. 150B-23. In such contested
9 cases, the burden of proof, by the greater weight of the evidence, shall be on the lessee.

10 (q) Repealed by Session Laws 1983, c. 621, s. 16.

11 (r) A lease under this section shall include the right to place devices or equipment related
12 to the cultivation or harvesting of marine resources on or within 18 inches of the leased bottom.
13 Devices or equipment not resting on the bottom or extending more than 18 inches above the
14 bottom will require a water column lease under G.S. 113-202.1.

15 (s) To facilitate shellfish aquaculture opportunities through advanced siting and
16 preapprovals from relevant federal and State agencies, the Secretary may establish Shellfish
17 Aquaculture Enterprise Areas. The Secretary shall only issue nontransferrable leases to residents
18 of North Carolina within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel
19 within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to
20 the State and be made available to other applicants."

21
22 **SECTION 1.1.(b)** As part of the Shellfish Mariculture Plan required by Section
23 13.13 of S.L. 2017-57, the North Carolina Policy Collaboratory and the Division of Marine
24 Fisheries shall study and recommend whether the establishment of a Shellfish Mariculture
25 Commission to oversee shellfish bottom leasing and other aspects of shellfish aquaculture would
26 substantially advance and promote the State's shellfish aquaculture industry. The
27 recommendation shall include proposals for additional or reallocated funding as well as proposed
28 legislation necessary to implement the recommendation.

29
30 **SECTION 1.1.(c)** As part of the Shellfish Mariculture Plan required by Section
31 13.13 of S.L. 2017-57, the North Carolina Policy Collaboratory shall establish a stakeholder
32 process to study and recommend whether the shellfish leasing moratoria established by Section
33 2 of Chapter 876 of the 1967 Session Laws and Section 1(c) of S.L. 2003-64 should apply to
34 Shellfish Aquaculture Enterprise Areas.

35
36 **ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS**

37 **SECTION 1.2.** G.S. 143B-289.57 is amended by adding a new subsection to read:

38 "(f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation
39 Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish
40 cultivation leases issued under G.S. 113-202. The Committee shall include one Commission
41 member, who shall serve as the hearing officer, and two public members. One public member
42 shall have expertise or other relevant experience in shellfish aquaculture, and the other public
43 member shall have expertise or other relevant experience with respect to coastal property or

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1 property assessment. The Commission shall adopt rules to establish procedures for the appeals
2 and may adopt temporary rules."
3

4 **EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE**
5 **SITING**

6 **SECTION 1.3.(a)** G.S. 113-203 reads as rewritten:

7 **"§ 113-203. Transplanting of oysters and clams.**

8 ...

9 (a2) It is unlawful to do any of the following:

- 10 (1) Transplant oysters or clams taken from public grounds to private beds except
11 when lawfully taken during open season and transported directly to a private
12 bed in accordance with rules of the Marine Fisheries Commission.
13 (2) Transplant oysters or clams taken from permitted aquaculture operations to
14 private beds except from waters in the approved classification.
15 (3) Transplant oysters or clams from public grounds or permitted aquaculture
16 operations utilizing waters in the prohibited, restricted or conditionally
17 approved classification to private beds except when the transplanting is done
18 in accordance with the provisions of this section and implementing rules.

19 (a3) ~~It~~ Unless the Secretary determines that the nursery of shellfish in an area will present
20 a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted
21 aquaculture operations that use waters in the prohibited, restricted or conditionally approved
22 classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the
23 Secretary that sets times during which transplant is permissible and other reasonable restrictions
24 imposed by the Secretary under either of the following circumstances:

- 25 (1) When transplanting seed clams less than 12 millimeters in their largest
26 dimension.
27 (2) When transplanting seed oysters less than 25 millimeters in their largest
28 dimension.

29"

30 **SECTION 1.3.(b)** G.S. 113-210(c) reads as rewritten:

31 "(c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under
32 Dock Oyster Culture Permit only if the Director determines all of the following:

- 33 (1) ~~That~~ If the dock or pier is not located in an area that the State Health Director
34 has recommended be closed to shellfish harvest due to pollution or that has
35 been closed to harvest by statute, rule, or proclamation due to suspected
36 pollution-pollution, the owner of the dock or pier has signed a written
37 acknowledgement that oysters produced under the permit are intended for
38 restoration purposes and not for consumption.

39"

40
41 **SHELLFISH AQUACULTURE ENTERPRISE AREAS**

42 **SECTION 1.4.** G.S. 113-201.1 is amended by adding a new subdivision to read:

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1 "(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and
2 permitted by the Department that is subdivided into parcels and made
3 available for shellfish aquaculture leasing." and
4
5 on page 6, lines 41 and 42,
6 by rewriting the lines to read:
7
8 "SECTION 3.2. This act becomes effective July 1, 2018."
9

SIGNED Bill Cook
Amendment Sponsor

SIGNED Adrian Williams
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



SENATE BILL 711: NC Farm Act of 2018.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	June 5, 2018
Introduced by:	Sens. B. Jackson, Cook, Sanderson	Prepared by:	Chris Saunders
Analysis of:	PCS to First Edition S711-CSTQf-5		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 711 would make various changes to laws concerning agriculture.*

CURRENT LAW AND BILL ANALYSIS:

Section 1 of the PCS would repeal the North Carolina Handler's Act (Article 44 of Chapter 106 of the General Statutes) and enact the Fruit and Vegetable Handlers Registration Act. Under current law, the Handler's Act requires a handler of fruit and vegetables to obtain a permit from the Commissioner of Agriculture ("Commissioner") and furnish to the Commissioner a bond of at least \$10,000 before entering into a written contract with a producer. The Fruit and Vegetable Handlers Registration Act would require a handler, prior to conducting business in North Carolina, to register with the Department of Agriculture and Consumer Services ("Department") by providing (i) the handler's name, (ii) the handler's principal place of business, (iii) the type of fruits and vegetables handled by the handler, and (iv) the annual volume, in dollars, of fruits and vegetables handled by the handler in North Carolina. The annual volume, in dollars, of fruits and vegetables handled in the State must be updated by February 1 of each year. The Commissioner may assess a civil penalty of up to \$100 per violation of the Article or rules directed thereunder after 15 days' notice is given to the handler, and may seek an injunction for failure to comply with the Article.

This section would become effective January 1, 2019 and would apply to handlers conducting business in the State on or after that date.

Section 2 would allow the Department to release collected information relating to agriculture that is confidential under federal law if confidentiality is waived by the federal agency that requires confidentiality.

Section 3 would exempt the Department from the Umstead Act for purposes of selling merchandise related to its Got To Be NC Agriculture marketing promotion. The Umstead Act restricts the State from engaging directly or indirectly in the sale of goods or operation of businesses or services in competition with citizens of the State.

Section 4 would classify "verified propagules," which are seeds or clones from an industrial hemp plant that has been laboratory tested and confirmed to have a THC concentration that complies with federal law, as hemp products. This would allow distribution of clones for cultivation. Under current law, only certified seed is classified as a hemp product for purposes of cultivation.

Karen Cochrane-Brown
Director

S711-SMTQ-17 (CSTQxf-5) -v-18

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Section 5 would make several technical corrections to the Forest Service statutes to correct references to the Secretary of the Department of Environmental Quality. These references were overlooked when the Forest Service was transferred to the Department of Agriculture and Consumer Services in 2011.

Section 6 would direct the Food and Drug Protection Division of the Department of Agriculture and Consumer Services to immediately develop an enforcement plan to enforce the United States Food and Drug Administration's standard of identity for milk and the Pasteurized Milk Ordinance, as adopted in the North Carolina Administrative Code, to prohibit the sale of plant-based products mislabeled as milk, such as soy milk and almond milk. No later than 90 days after the PCS becomes effective, the Department would be required to implement its enforcement plan, including notification of the Department's intent to embargo all mislabeled products offered for sale in the State. This would prohibit beverages derived from plants from being labeled as milk, such as "soy milk" and "almond milk."

The PCS would require all plant-based products for sale in the State to be labeled in accordance with the FDA's standard of identity for milk and the Pasteurized Milk Ordinance no later than January 1, 2019.

Section 7 would establish that a quorum for the Agriculture and Forestry Awareness Study Commission is nine members.

Section 8 would direct the Agriculture and Forestry Awareness Study Commission to study (i) requiring the holders of unused rights-of-way and utility easements to offer the easements to the underlying property owners for fair market value, and (ii) the advisability of excluding property enrolled in present use value taxation from rural fire protection district and county service district taxes. The Agriculture and Forestry Awareness Study Commission would be directed to complete the studies and report its findings and recommendations, including any legislative proposals, to the General Assembly by January 1, 2019.

Section 9 would direct all counties in the State to require that land records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that the tract is located within one half-mile of a poultry, swine, or dairy farm or other qualifying farm or a voluntary agricultural district, or within 600 feet of any other type of qualifying farm. Under current law, any county that has a computerized land records system may require such notice. For purposes of this section, a qualifying farm means a farm that qualifies for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district.

Section 10: Under the current right-to-farm law, no agricultural or forestry operation may be or become a nuisance by "any changed conditions in or about the locality of the operation after the operation has been in operation for more than one year, when such operation was not a nuisance at the time the operation began." Section 10 would provide that for purposes of the right-to-farm law, a changed condition in or about the locality outside of the operation includes, but is not limited to, a change in the ownership, occupancy, or use of the property that is affected by the alleged nuisance. This section would also repeal an exception to the right-to-farm law when a nuisance results from negligent or improper operation of the operation, and establish a presumption that the operation's activities are reasonable and not a nuisance, which the plaintiff may rebut by clear and convincing evidence that the operation has not been managed in a manner substantially consistent with (i) practices, methods, or procedures that are generally accepted and routinely utilized by other agricultural and forestry operations in region, and (ii) applicable laws and regulations.

This section would be effective when it becomes law.

Section 11 would direct the Utilities Commission, no later than October 1, 2018, to adopt rules to establish reasonable limitations on the amount by which a natural gas local distribution company may increase its margin revenues, in the event that actual construction costs exceed the estimated construction costs

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provided in the agreement, in an agreement between the natural gas local distribution company and a customer that provides for cost recovery in connection with the construction of facilities and extension of natural gas service to a property used for bona fide farm purposes.

Section 12 would provide that appointed and elected soil and water conservation district supervisors must receive six clock hours of training on soil, water, and natural resources conservation and the duties and responsibilities of district supervisors per term in office. Under current law, district supervisors must receive six clock hours of training per year.

Section 13 would provide that items that are exempted from sales tax when purchased by a qualifying farmer for use in a farming operation are also exempt from sales tax when purchased by a qualifying farmer for use in a zoo operated by a qualifying farmer. Income from zoo operations would be exempted for purposes of the income requirements for a qualifying farmer.

This section would become effective retroactively to January 1, 2011, and would apply to purchases made on or after that date. A person who paid sales and use tax for a return period ending prior to the date this section becomes law on an item exempt from sales and use tax pursuant would be able to apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2019.

Section 14 would direct the Department of Revenue to publish a depreciation schedule for farm equipment and make the schedule electronically available on its website. A county appraiser would be allowed to use any of the appraisal methods provided in statute and would be required to consider relevant taxpayer information. However, if the county uses a cost approach method to appraise the equipment, the county would be required to appraise the equipment using the depreciation schedule published by the Department of Revenue.

This section would be effective for taxes imposed for taxable years beginning on or after July 1, 2019.

Section 15: Under current law, real property set apart for burial purposes, where the property is not offered for sale or rental or sale of burial rights therein, is not subject to property tax. This section would provide that the owner of the property is not required to apply for the property tax exemption for burial property. A county would be prohibited from denying the exemption to a taxpayer who lacks a survey or plat detailing the exempt property.

Section 16 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

SENATE BILL 711

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/5/18
PROPOSED COMMITTEE SUBSTITUTE S711-PCS15303-TQx-6

Short Title: NC Farm Act of 2018.

(Public)

Sponsors:

Referred to:

May 17, 2018

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS.
The General Assembly of North Carolina enacts:

FRUIT AND VEGETABLE HANDLERS REGISTRATION ACT

SECTION 1.(a) Article 44 of Chapter 106 of the General Statutes is repealed.

SECTION 1.(b) Chapter 106 of the General Statutes is amended by adding a new
Article to read:

"Article 44A.

"Fruit and Vegetable Handlers Registration Act.

"§ 106-501.1. Definitions.

The following definitions shall apply when used under this Article:

- (1) "Commissioner" means the Commissioner of Agriculture of the State of North Carolina.
- (2) "Consignment" means any transfer of fruits and vegetables by a seller to the custody of another person who acts as the agent for the seller for the purpose of selling such fruits and vegetables.
- (3) "Department" means the Department of Agriculture and Consumer Services.
- (4) "Farmer" means any person who produces fruits or vegetables or both.
- (5) "Handler" means any person in the business of buying, receiving, selling, exchanging, negotiating, processing for resale, or soliciting the sale, resale, exchange, or transfer of any fruits and vegetables purchased from a North Carolina farmer, received on consignment from a North Carolina farmer, or received to be handled on net return basis from a North Carolina farmer.
- (6) "Net return basis" means a purchase for sale of fruits and vegetables from a farmer or shipper at an unfixed or unstated price at the time the fruits and vegetables are shipped from the point of origin, and it shall include all purchases made "at the market price," "at net worth," and on similar terms, which indicate that the buyer is the final arbiter of the price to be paid.
- (7) "Processing" means any act or operation that freezes, dehydrates, cans, or otherwise changes the physical form or characteristic of fruits and vegetables.

"§ 106-501.2. Registration required.

(a) Prior to conducting business in North Carolina, a handler shall register with the Department, free of cost, by providing to the Department the following information:

- (1) The handler's name.



- (2) The handler's principal place of business.
- (3) The type of fruits and vegetables handled by the handler.
- (4) The annual volume, in dollar amount, of fruits and vegetables handled by the handler in North Carolina.

(b) A handler shall update the Department within 60 calendar days of any change in information required under subdivision (a)(1), (a)(2), or (a)(3) of this section.

(c) A handler shall update the Department of the annual volume required under subdivision (a)(4) of this section by February 1st of each year.

(d) Information collected under this Article shall be held confidential by the Department and not subject to public records disclosure.

"§ 106-501.3. Exemptions to registration.

This Article shall not apply to:

- (1) A farmer or group of farmers in the sale of fruits and vegetables produced by the farmer or group of farmers.
- (2) A handler who pays at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or PIN-based debit transaction, or a credit card.
- (3) A restaurant.
- (4) A retailer that sells fruits and vegetables to end-use consumers through retail establishments or food stands operated by the company, its affiliates, or subsidiaries.

"§ 106-501.4. Authority of the Board of Agriculture.

The Board of Agriculture may adopt rules to implement this Article.

"§ 106-501.5. Civil penalties.

(a) The Commissioner may assess a civil penalty of not more than one hundred dollars (\$100.00) per violation against any person or business entity who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Civil penalties for failure to register or provide updated information under this Article shall only be issued after a 15-calendar-day notice has been provided to the handler and the handler fails to remedy the deficiency within the 15 days.

"§ 106-501.6. Injunctions.

In addition to the remedies provided in this Article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to any court of competent jurisdiction, and such court shall have jurisdiction upon hearing and for cause shown to grant, for a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this Article or any rule promulgated thereunder. Such injunction shall be issued without bond."

SECTION 1.(c) This section becomes effective January 1, 2019, and applies to handlers conducting business in the State on or after that date.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
CONFIDENTIALITY CHANGE**

SECTION 2. G.S. 106-24.1 reads as rewritten:

"§ 106-24.1. Confidentiality of information collected and published.

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information generated by any federal agency received pursuant to this Part-Chapter that is confidential under federal law shall be held confidential by the

Department and its ~~employees~~, unless confidentiality is waived by the federal agency. All information collected by the Department from farm owners or animal owners, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports received or generated from samples submitted for analysis, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health, or the disclosure is necessary in the implementation of these animal health programs."

EXEMPT GOT TO BE NC AGRICULTURE MERCHANDISE FROM UMSTEAD ACT

SECTION 3. G.S. 66-58 reads as rewritten:

"§ 66-58. Sale of merchandise or services by governmental units.

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of the unit, department or agency, or any individual employee or employees of the unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

...

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(13e) The Department of Agriculture and Consumer Services with regard to its Got to Be NC Agriculture promotion.

...."

ALLOW DISTRIBUTION OF VERIFIED PROPAGULES BY INDUSTRIAL HEMP COMMISSION

SECTION 4. G.S. 106-568.51 reads as rewritten:

"§ 106-568.51. Definitions.

The following definitions apply in this Article:

(1) ~~Certified seed. — Industrial hemp seed that has been certified as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.~~

(2) Commercial use. — The use of industrial hemp as a raw ingredient in the production of hemp products.

(3) Commission. — The North Carolina Industrial Hemp Commission created by this Article.

(4) Department. — The North Carolina Department of Agriculture.

- (5) Grower. – Any person licensed to grow industrial hemp by the Commission pursuant to this Article.
- (6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and ~~certified~~ seed-verified propagules for cultivation if the seeds originate from industrial hemp varieties.
- (7) Industrial hemp. – All parts and varieties of the plant *Cannabis sativa* (L.), cultivated or possessed by a grower licensed by the Commission, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (7a) Industrial hemp research program. – The research program established pursuant to G.S. 106-568.53(1).
- (7b) State land grant university. – North Carolina State University and North Carolina A&T State University.
- (8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.
- (9) Verified propagule. – A seed or clone from an industrial hemp plant from which THC concentration samples have been tested by a qualified laboratory and confirmed as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801, et seq.

TECHNICAL CORRECTIONS TO FORESTRY STATUTES

SECTION 5.(a) G.S. 106-980(b) reads as rewritten:

"(b) Three or more persons, who associate themselves by an agreement in writing for the purpose, may become a private limited dividend corporation to finance and carry out projects for the protection and development of forests and for such other related purposes as the ~~Secretary~~ Commissioner shall approve, subject to all the duties, restrictions and liabilities, and possessing all the rights, powers, and privileges, of corporations organized under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article."

SECTION 5.(b) G.S. 106-981 reads as rewritten:

"§ 106-981. Manner of organizing.

A corporation formed under this Article shall be organized and incorporated in the manner provided for organization of corporations under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article. The certificate of organization of any such corporation shall contain a statement that it is organized under the provisions of this Article and that it consents to be and shall be at all times subject to the rules and supervision of the ~~Secretary, Commissioner,~~ and shall set forth as or among its purposes the protection and development of forests and the purchase, acquisition, sale, conveyance and other dealing in the same and the products therefrom, subject to the rules from time to time imposed by the ~~Secretary, Commissioner.~~"

SECTION 5.(c) G.S. 106-982 reads as rewritten:

"§ 106-982. Directors.

There shall not be less than three directors, one of whom shall always be a person designated by the ~~Secretary, Commissioner,~~ which one need not be a stockholder."

SECTION 5.(d) G.S. 106-1003 reads as rewritten:

"§ 106-1003. Deposit of receipts with State treasury.

All moneys paid to the ~~Secretary-Commissioner~~ for services rendered under the provisions of this Article shall be deposited into the State treasury to the credit of the Department."

SECTION 5.(e) G.S. 106-1012(2) reads as rewritten:

"(2) "Approved practices" mean those silvicultural practices approved by the ~~Secretary-Commissioner~~ for the purpose of commercially growing timber through the establishment of forest stands, of insuring the proper regeneration of forest stands to commercial production levels following the harvest of mature timber, or of insuring maximum growth potential of forest stands to commercial production levels. Such practices shall include those required to accomplish site preparation, natural and artificial forestation, noncommercial removal of residual stands for silvicultural purposes, cultivation of established young growth of desirable trees for silvicultural purposes, and improvement of immature forest stands for silvicultural purposes. In each case, approved practices will be determined by the needs of the individual forest stand. These practices shall include existing practices and such practices as are developed in the future to insure both maximum forest productivity and environmental protection."

DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO ADDRESS MISLABELING OF PLANT-BASED PRODUCTS AS "MILK"

SECTION 6.(a) The following definitions apply to this section:

- (1) "Department" means the Department of Agriculture and Consumer Services.
- (2) "FDA" means the United States Food and Drug Administration.
- (3) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy hooved mammals. Hooved mammals include, but are not limited to, the members of the Order Cetartiodactyla, such as: Family Bovidae (cattle, water buffalo, sheep, goats, yaks, etc.), Family Camelidae (llamas, alpacas, camels, etc.), Family Cervidae (deer, reindeer, moose, etc.), and Family Equidae (horses, donkeys, etc.).

SECTION 6.(b) In accordance with the established standard of identity for milk defined in 21 C.F.R. § 131.110 and the Pasteurized Milk Ordinance, the Department shall immediately develop an enforcement plan to enforce FDA's standard of identity for milk as adopted in the North Carolina Administrative Code to prohibit the sale of plant-based products mislabeled as milk.

SECTION 6.(c) No later than 90 days after the effective date of this act, the Department shall begin to implement its enforcement plan, which shall include, but is not limited to, notification of the Department's intent to embargo all mislabeled products offered for sale in this State. All plant-based products displayed for sale in this State shall be labeled in accordance with FDA's standard of identity for milk and the Pasteurized Milk Ordinance no later than January 1, 2019.

SET QUORUM FOR AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION

SECTION 7. G.S. 120-150 reads as rewritten:

"§ 120-150. Creation; appointment of members.

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the Governor.
- (2) Three appointed by the President Pro Tempore of the Senate.

- (3) Three appointed by the Speaker of the House.
- (4) The chairs of the House Agriculture Committee.
- (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's designee.
- (7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (9) The President of the North Carolina State Grange or the President's designee.
- (10) The Secretary of Environmental Quality or the Secretary's designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochair. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochair shall be voting members of the Commission. A quorum of the Commission is nine members."

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 8.(a) The Agriculture and Forestry Awareness Study Commission shall study all of the following matters:

- (1) Requiring the holders of unused rights-of-way and utility easements to offer the easements to the underlying property owners for fair market value.
- (2) The advisability of excluding property enrolled in present use value taxation from rural fire protection district and county service district taxes.

SECTION 8.(b) The Agriculture and Forestry Awareness Study Commission shall complete the studies required by subsection (a) of this section and report its findings and recommendations, including any legislative proposals, to the General Assembly by January 1, 2019.

MANDATORY RECORD NOTICE OF PROXIMITY TO FARMLANDS

SECTION 9. G.S. 106-741 reads as rewritten:

"§ 106-741. Record notice of proximity to farmlands.

(a) ~~Any county that has a computerized land records system may require that such~~ All counties shall require that land records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.

(b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).

(c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article."

CLARIFY AND AMEND NORTH CAROLINA RIGHT TO FARM LAW

SECTION 10.(a) G.S. 106-700 reads as rewritten:

1 **"§ 106-700. Legislative determination and declaration of policy.**

2 It is the declared policy of the State to conserve and protect and encourage the development
3 and improvement of its agricultural land and forestland for the production of food, fiber, and
4 other products. When there are changed conditions in the locality near agricultural and forestry
5 areas, including other land uses that extend into agricultural and forest-forestry areas, agricultural
6 and forestry operations often become the subject of nuisance suits. As a result, agricultural and
7 forestry operations are sometimes forced to cease. Many others are discouraged from making
8 investments in farm and forest improvements. It is the purpose of this Article to reduce the loss
9 to the State of its agricultural and forestry resources by limiting the circumstances under which
10 an agricultural or forestry operation may be deemed to be a nuisance."

11 **SECTION 10.(b)** G.S. 106-701 reads as rewritten:

12 **"§ 106-701. When agricultural and forestry operation, etc., not constituted nuisance by**
13 **changed conditions in or about the locality outside of the operation.**

14 (a) No agricultural or forestry operation or any of its appurtenances shall be or become a
15 nuisance, private or public, by any changed conditions in or about the locality outside of the
16 operation after the operation has been in operation for more than one year, when such operation
17 was not a nuisance at the time the operation began. For purposes of this section, the phrase
18 "changed conditions" includes, but is not limited to, a change in ownership, occupancy, or the
19 use of the property that is affected by the alleged nuisance.

20 (a1) The provisions of subsection (a) of this section shall not apply when the plaintiff
21 demonstrates that the agricultural or forestry operation has undergone a fundamental change. A
22 fundamental change to the operation does not include any of the following:

- 23 (1) A change in ownership or size.
- 24 (2) An interruption of farming for a period of no more than three years.
- 25 (3) Participation in a government-sponsored agricultural program.
- 26 (4) Employment of new technology.
- 27 (5) A change in the type of agricultural or forestry product produced.

28 ~~(a2) The provisions of subsection (a) of this section shall not apply whenever a nuisance~~
29 ~~results from the negligent or improper operation of any agricultural or forestry operation or its~~
30 ~~appurtenances.~~

31 (a3) The activities conducted by an agricultural or forestry operation are presumed not to
32 be a nuisance unless the plaintiff shows by clear and convincing evidence that the operation has
33 not been managed in a manner substantially consistent with (i) practices, methods, or procedures
34 that are generally accepted and routinely utilized by other agricultural and forestry operations in
35 region and (ii) applicable laws and regulations.

36 (b) For the purposes of this Article, "agricultural operation" includes, without limitation,
37 any facility for the production for commercial purposes of crops, livestock, poultry, livestock
38 products, or poultry products.

39 (b1) For the purposes of this Article, "forestry operation" shall mean those activities
40 involved in the growing, managing, and harvesting of trees.

41 (c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm,
42 or corporation to recover damages for any injuries or damages sustained by him on account of
43 any pollution of, or change in condition of, the waters of any stream or on the account of any
44 overflow of lands of any such person, firm, or corporation.

45 (d) Any and all ordinances of any unit of local government now in effect or hereafter
46 adopted that would make the operation of any such agricultural or forestry operation or its
47 appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance
48 set forth in this section are and shall be null and void; ~~provided, however, that the provisions of~~
49 ~~this subsection shall not apply whenever a nuisance results from the negligent or improper~~
50 ~~operation of any such agricultural or forestry operation or any of its appurtenances. Provided~~
51 ~~further, void. Provided, however, that the provisions shall not apply whenever a nuisance results~~

from an agricultural or forestry operation located within the corporate limits of any city at the time of enactment hereof.

(e) This section shall not be construed to invalidate any contracts heretofore made but insofar as contracts are concerned, it is only applicable to contracts and agreements to be made in the future.

(f) In a nuisance action against an agricultural or forestry operation, the court shall award costs and expenses, including reasonable attorneys' fees, to:

(1) The agricultural or forestry operation when the court finds the operation was not a nuisance and the nuisance action was frivolous or malicious; or

(2) The plaintiff when the court finds the agricultural or forestry operation was a nuisance and the operation asserted an affirmative defense in the nuisance action that was frivolous and malicious."

SECTION 10.(c) This section is effective when it becomes law.

DIRECT UTILITIES COMMISSION TO ADOPT RULES FOR CERTAIN NATURAL GAS MARGIN REVENUE AGREEMENTS

SECTION 11. No later than October 1, 2018, the Utilities Commission shall adopt rules to establish reasonable limitations on the amount by which a natural gas local distribution company may increase its margin revenues, in the event that actual construction costs exceed the estimated construction costs provided in the agreement, in an agreement between the natural gas local distribution company and a customer that provides for cost recovery in connection with the construction of facilities and extension of natural gas service to a property used for bona fide farm purposes.

AMEND SOIL AND WATER CONSERVATION DISTRICT SUPERVISOR CONTINUING EDUCATION REQUIREMENTS

SECTION 12. G.S. 139-7.2 reads as rewritten:

"§ 139-7.2. Training of elective and appointive district supervisors.

(a) All district supervisors, whether elected or appointed, shall complete a minimum of six clock hours of training ~~annually~~ per term of service.

(b) The training shall include soil, water, and natural resources conservation and the duties and responsibilities of district supervisors.

(c) The training may be provided by the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources as approved by the Soil and Water Conservation Commission."

SALES TAX EXEMPTION FOR A ZOO OPERATED BY A QUALIFYING FARMER

SECTION 13.(a) G.S. 105-164.13 reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(70) Sales of items listed in G.S. 105-164.13E purchased by a qualifying farmer for use in a zoo operated by a qualifying farmer. For purposes of this subdivision, the term "qualifying farmer" has the same meaning as defined in G.S. 105-164.13E(a). Income from zoo operations are excluded for purposes of the income requirements for a qualifying farmer."

SECTION 13.(b) This section becomes effective retroactively to January 1, 2011, and applies to purchases made on or after that date. A person who paid sales and use tax for a return period ending prior to the date this section becomes law on an item exempt from sales and

use tax pursuant to G.S. 105-164.13(70), as enacted by this section, may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2019. Notwithstanding G.S. 105-241.6, a request for a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

PROVIDE UNIFORMITY TO ASSESSMENT OF FARM MACHINERY

SECTION 14.(a) G.S. 105-317.1 reads as rewritten:

"§ 105-317.1. Appraisal of personal property; elements to be considered.

(a) Appraisal Elements. – Whenever any personal property is appraised it shall be the duty of the persons making appraisals to consider the following as to each item (or lot of similar items):

- (1) The replacement cost of the property;
- (2) The sale price of similar property;
- (3) The age of the property;
- (4) The physical condition of the property;
- (5) The productivity of the property;
- (6) The remaining life of the property;
- (7) The effect of obsolescence on the property;
- (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes; and
- (9) Any other factor that may affect the value of the property.

(b) Business Property. – In determining the true value of taxable tangible personal property held and used in connection with the mercantile, manufacturing, producing, processing, or other business enterprise of any taxpayer, the persons making the appraisal shall consider any information as reflected by the taxpayer's records and as reported by the taxpayer to the North Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes, taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting, and the level of trade at which the taxpayer does business.

(b1) Farm Equipment. – In determining the true value of taxable farm equipment, the person making the appraisal may use any of the appraisal methods listed in subsection (a) of this section and must consider relevant taxpayer information as required under subsection (b) of this section. The Department must publish a depreciation schedule for farm equipment to assist counties that use the cost approach to appraise this equipment. The Department must make the schedule available electronically on its Web site. A county that uses a cost approach method to appraise this equipment must use the depreciation schedule published pursuant to this subsection.

(c) Appeal Process. – A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely

request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be followed."

SECTION 14.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2019.

CLARIFY CEMETERY PROPERTY TAX EXEMPTION

SECTION 15. G.S. 105-278.2(a) reads as rewritten:

"(a) Real property set apart for burial purposes shall be exempted from taxation unless it is owned and held for purposes of (i) sale or rental or (ii) sale of burial rights therein. No application is required under G.S. 105-282.1 for property exempt under this subsection. A county cannot deny the exemption provided under this subsection to a taxpayer that lacks a survey or plat detailing the exempt property."

LAW ENFORCEMENT MUTUAL AID AND VETERINARIAN COMITY FOR WORLD EQUESTRIAN GAMES

SECTION 15.1.(a) Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-212.5. Mutual aid assistance by out-of-state law enforcement officers for international equestrian event.

(a) Any law enforcement agency may request and enter into intergovernmental law enforcement mutual aid agreements with out-of-state law enforcement agencies or out-of-state law enforcement officers to aid in enforcing the laws of North Carolina within the jurisdiction of the requesting law enforcement agency for maintaining security and safety for an international equestrian event.

(b) Any intergovernmental law enforcement mutual aid agreement entered into under this section shall be in writing and may be comprised of any of the following:

- (1) Allowing out-of-state law enforcement officers to work temporarily with officers of the requesting law enforcement agency, including in an undercover capacity.
- (2) Furnishing, lending, or exchanging supplies, equipment, facilities, personnel, and services as may be needed.
- (3) Reciprocal law enforcement mutual aid and assistance between law enforcement agencies.

(c) Any intergovernmental law enforcement mutual aid agreement entered into under this section shall address all of the following:

- (1) Standards of conduct for the out-of-state law enforcement officers, including the requesting law enforcement agencies' policies regarding the use of force.
- (2) Training requirements, as prescribed by the requesting law enforcement agency.
- (3) Reimbursement of costs and expenses for supplies, equipment, facilities, personnel, services, and similar items if furnished, lent, or exchanged as part of the intergovernmental law enforcement mutual aid agreement.
- (4) Protocols for processing claims made against or by the out-of-state law enforcement officer.
- (5) Approval of the governing body, if the law enforcement agency is a sheriff or municipal police force.

(d) While working with the requesting law enforcement agency under the authority of this section, an out-of-state law enforcement officer shall have the same jurisdiction, powers, rights, privileges, and immunities, including those relating to the defense of civil actions and payment of judgments, as the officers of the requesting law enforcement agency. While on duty

1 with the requesting law enforcement agency, the out-of-state law enforcement officer shall be
2 subject to the lawful operational commands of the requesting law enforcement agency.

3 (e) Notwithstanding the provisions of Chapter 17C and Chapter 17E of the General
4 Statutes, out-of-state law enforcement officers certified and sworn in the officers' home
5 jurisdiction and subject to the provisions of an intergovernmental law enforcement mutual aid
6 agreement under this section shall be deemed to have met the certification requirements of this
7 State for the purposes of being sworn as a law enforcement officer with the requesting law
8 enforcement agency.

9 (f) Notwithstanding the provisions of G.S. 128-1 and G.S. 128-1.1(c1), out-of-state law
10 enforcement officers shall be authorized to hold dual offices when one of the appointive offices
11 held is that of a out-of-state law enforcement officer and the other appointive office is that of a
12 law enforcement officer for a law enforcement agency authorized to enter into an
13 intergovernmental law enforcement mutual aid agreement under this section.

14 (g) This section in no way reduces the jurisdiction or authority of State law enforcement
15 officers.

16 (h) As used in this section, the following definitions apply:

17 (1) Law enforcement agency. – Any of the following:

18 a. The Highway Patrol, as established by Article 4 of Chapter 20 of the
19 General Statutes.

20 b. A sheriff elected and serving a county sharing a border with another
21 state and which county is the site of an equestrian event with
22 worldwide participants.

23 c. A municipal police department for a municipality located, in whole or
24 part, in a county sharing a border with another state and which
25 municipality is the site of an equestrian event with worldwide
26 participants.

27 (2) Out-of-state law enforcement agency. – An employer which is a governmental
28 agency outside of this State that meets all of the following criteria:

29 a. Is assigned primary duties and responsibilities for prevention and
30 detection of crime or the general enforcement of the criminal laws of
31 the home jurisdiction or serving civil processes.

32 b. Has employees who possess the power of arrest by virtue of an oath
33 administered under the authority of the home jurisdiction.

34 (3) Out-of-state law enforcement officer. – A full-time paid employee of a
35 governmental employer who meets all of the following criteria:

36 a. Is actively serving in a position with assigned primary duties and
37 responsibilities for prevention and detection of crime or the general
38 enforcement of the criminal laws of the officer's home jurisdiction or
39 serving civil processes.

40 b. Possesses the power of arrest by virtue of an oath administered under
41 the authority of the home jurisdiction.

42 c. Is in good standing and has no pending civil, criminal, or departmental
43 action that would disqualify the officer if the officer were certified by
44 this State."

45 **SECTION 15.1.(b)** Article 11 of Chapter 90 of the General Statutes is amended by
46 adding a new section to read:

47 **"§ 90-187.3A. Comity for out-of-state veterinarians and international veterinarians for**
48 **international equestrian event.**

49 (a) Any nonresident veterinarian validly licensed in another state, territory, or district of
50 the United States or a foreign country may submit to the Board an application for a licensure to
51 practice veterinary medicine in this State.

1 (b) The Board shall issue, without written examination, a license to practice veterinary
2 medicine in this State to a nonresident veterinarian validly licensed in another state, territory, or
3 district of the United States or a foreign country who submits an application for licensure upon
4 payment of the fee authorized in G.S. 90-186(6)(e) for the issuance of a license.

5 (c) Any license issued under subsection (b) of this section is valid only for treating a
6 horse previously in the care of the nonresident veterinarian."

7 **SECTION 15.1.(c)** This section is effective when it becomes law and expires
8 October 1, 2018.

9
10 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

11 **SECTION 16.(a)** If any provision of this act or the application thereof to any person
12 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
13 of this act which can be given effect without the invalid provision or application, and, to this end,
14 the provisions of this act are declared to be severable.

15 **SECTION 16.(b)** Except as otherwise provided, this act is effective when it becomes
16 law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

2

SENATE BILL 711

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/5/18

Short Title: NC Farm Act of 2018.

(Public)

Sponsors:

Referred to:

May 17, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE AGRICULTURAL LAWS.
3 The General Assembly of North Carolina enacts:

4
5 **FRUIT AND VEGETABLE HANDLERS REGISTRATION ACT**

6 **SECTION 1.(a)** Article 44 of Chapter 106 of the General Statutes is repealed.

7 **SECTION 1.(b)** Chapter 106 of the General Statutes is amended by adding a new
8 Article to read:

9 "Article 44A.

10 "Fruit and Vegetable Handlers Registration Act.

11 **"§ 106-501.1. Definitions.**

12 The following definitions shall apply when used under this Article:

- 13 (1) "Commissioner" means the Commissioner of Agriculture of the State of North
14 Carolina.
15 (2) "Consignment" means any transfer of fruits and vegetables by a seller to the
16 custody of another person who acts as the agent for the seller for the purpose
17 of selling such fruits and vegetables.
18 (3) "Department" means the Department of Agriculture and Consumer Services.
19 (4) "Farmer" means any person who produces fruits or vegetables or both.
20 (5) "Handler" means any person in the business of buying, receiving, selling,
21 exchanging, negotiating, processing for resale, or soliciting the sale, resale,
22 exchange, or transfer of any fruits and vegetables purchased from a North
23 Carolina farmer, received on consignment from a North Carolina farmer, or
24 received to be handled on net return basis from a North Carolina farmer.
25 (6) "Net return basis" means a purchase for sale of fruits and vegetables from a
26 farmer or shipper at an unfixed or unstated price at the time the fruits and
27 vegetables are shipped from the point of origin, and it shall include all
28 purchases made "at the market price," "at net worth," and on similar terms,
29 which indicate that the buyer is the final arbiter of the price to be paid.
30 (7) "Processing" means any act or operation that freezes, dehydrates, cans, or
31 otherwise changes the physical form or characteristic of fruits and vegetables.

32 **"§ 106-501.2. Registration required.**

33 (a) Prior to conducting business in North Carolina, a handler shall register with the
34 Department, free of cost, by providing to the Department the following information:

- 35 (1) The handler's name.
36 (2) The handler's principal place of business.



- (3) The type of fruits and vegetables handled by the handler.
- (4) The annual volume, in dollar amount, of fruits and vegetables handled by the handler in North Carolina.
- (b) A handler shall update the Department within 60 calendar days of any change in information required under subdivision (a)(1), (a)(2), or (a)(3) of this section.
- (c) A handler shall update the Department of the annual volume required under subdivision (a)(4) of this section by February 1st of each year.
- (d) Information collected under this Article shall be held confidential by the Department and not subject to public records disclosure.

"§ 106-501.3. Exemptions to registration.

This Article shall not apply to:

- (1) A farmer or group of farmers in the sale of fruits and vegetables produced by the farmer or group of farmers.
- (2) A handler who pays at the time of purchase with United States cash currency or a cash equivalent, such as a money order, cashier's check, wire transfer, electronic funds transfer, or PIN-based debit transaction, or a credit card.
- (3) A restaurant.
- (4) A retailer that sells fruits and vegetables to end-use consumers through retail establishments or food stands operated by the company, its affiliates, or subsidiaries.

"§ 106-501.4. Authority of the Board of Agriculture.

The Board of Agriculture may adopt rules to implement this Article.

"§ 106-501.5. Civil penalties.

(a) The Commissioner may assess a civil penalty of not more than one hundred dollars (\$100.00) per violation against any person or business entity who violates a provision of this Article or any rule adopted thereunder. In determining the amount of the penalty, the Commissioner shall consider the degree and extent of harm caused by the violation. The clear proceeds of civil penalties assessed pursuant to this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) Civil penalties for failure to register or provide updated information under this Article shall only be issued after a 15-calendar-day notice has been provided to the handler and the handler fails to remedy the deficiency within the 15 days.

"§ 106-501.6. Injunctions.

In addition to the remedies provided in this Article and notwithstanding the existence of any adequate remedy at law, the Commissioner is authorized to apply to any court of competent jurisdiction, and such court shall have jurisdiction upon hearing and for cause shown to grant, for a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of this Article or any rule promulgated thereunder. Such injunction shall be issued without bond."

SECTION 1.(c) This section becomes effective January 1, 2019, and applies to handlers conducting business in the State on or after that date.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
CONFIDENTIALITY CHANGE**

SECTION 2. G.S. 106-24.1 reads as rewritten:

"§ 106-24.1. Confidentiality of information collected and published.

All information published by the Department of Agriculture and Consumer Services pursuant to this Part shall be classified so as to prevent the identification of information received from individual farm operators. All information generated by any federal agency received pursuant to this ~~Part~~ Chapter that is confidential under federal law shall be held confidential by the Department and its ~~employees~~ employees, unless confidentiality is waived by the federal agency.

All information collected by the Department from farm owners or animal owners, including, but not limited to, certificates of veterinary inspection, animal medical records, laboratory reports received or generated from samples submitted for analysis, or other records that may be used to identify a person or private business entity subject to regulation by the Department shall not be disclosed without the permission of the owner unless the State Veterinarian determines that disclosure is necessary to prevent the spread of an animal disease or to protect the public health, or the disclosure is necessary in the implementation of these animal health programs."

EXEMPT GOT TO BE NC AGRICULTURE MERCHANDISE FROM UMSTEAD ACT

SECTION 3. G.S. 66-58 reads as rewritten:

"§ 66-58. Sale of merchandise or services by governmental units.

(a) Except as may be provided in this section, it shall be unlawful for any unit, department or agency of the State government, or any division or subdivision of the unit, department or agency, or any individual employee or employees of the unit, department or agency in his, or her, or their capacity as employee or employees thereof, to engage directly or indirectly in the sale of goods, wares or merchandise in competition with citizens of the State, or to engage in the operation of restaurants, cafeterias or other eating places in any building owned by or leased in the name of the State, or to maintain service establishments for the rendering of services to the public ordinarily and customarily rendered by private enterprises, or to provide transportation services, or to contract with any person, firm or corporation for the operation or rendering of the businesses or services on behalf of the unit, department or agency, or to purchase for or sell to any person, firm or corporation any article of merchandise in competition with private enterprise. The leasing or subleasing of space in any building owned, leased or operated by any unit, department or agency or division or subdivision thereof of the State for the purpose of operating or rendering of any of the businesses or services herein referred to is hereby prohibited.

(b) The provisions of subsection (a) of this section shall not apply to:

...

(13b) The Department of Agriculture and Consumer Services with regard to its lessees at farmers' markets operated by the Department.

(13c) The Western North Carolina Agricultural Center.

(13d) Agricultural centers or livestock facilities operated by the Department of Agriculture and Consumer Services.

(13e) The Department of Agriculture and Consumer Services with regard to its Got to Be NC Agriculture promotion.

...."

ALLOW DISTRIBUTION OF VERIFIED PROPAGULES BY INDUSTRIAL HEMP COMMISSION

SECTION 4. G.S. 106-568.51 reads as rewritten:

"§ 106-568.51. Definitions.

The following definitions apply in this Article:

(1) ~~Certified seed. — Industrial hemp seed that has been certified as having a delta 9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801 et seq.~~

(2) Commercial use. — The use of industrial hemp as a raw ingredient in the production of hemp products.

(3) Commission. — The North Carolina Industrial Hemp Commission created by this Article.

(4) Department. — The North Carolina Department of Agriculture.

(5) Grower. — Any person licensed to grow industrial hemp by the Commission pursuant to this Article.

- (6) Hemp products. – All products made from industrial hemp, including, but not limited to, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed, seed meal and seed oil for consumption, and ~~certified~~ seed-verified propagules for cultivation if the seeds originate from industrial hemp varieties.
- (7) Industrial hemp. – All parts and varieties of the plant *Cannabis sativa* (L.), cultivated or possessed by a grower licensed by the Commission, whether growing or not, that contain a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent (0.3%) on a dry weight basis.
- (7a) Industrial hemp research program. – The research program established pursuant to G.S. 106-568.53(1).
- (7b) State land grant university. – North Carolina State University and North Carolina A&T State University.
- (8) Tetrahydrocannabinol or THC. – The natural or synthetic equivalents of the substances contained in the plant, or in the resinous extractives of, cannabis, or any synthetic substances, compounds, salts, or derivatives of the plant or chemicals and their isomers with similar chemical structure and pharmacological activity.
- (9) Verified propagule. – A seed or clone from an industrial hemp plant from which THC concentration samples have been tested by a qualified laboratory and confirmed as having a delta-9 tetrahydrocannabinol concentration less than that adopted by federal law in the Controlled Substances Act, 21 U.S.C. § 801, et seq.

TECHNICAL CORRECTIONS TO FORESTRY STATUTES

SECTION 5.(a) G.S. 106-980(b) reads as rewritten:

"(b) Three or more persons, who associate themselves by an agreement in writing for the purpose, may become a private limited dividend corporation to finance and carry out projects for the protection and development of forests and for such other related purposes as the ~~Secretary~~ Commissioner shall approve, subject to all the duties, restrictions and liabilities, and possessing all the rights, powers, and privileges, of corporations organized under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article."

SECTION 5.(b) G.S. 106-981 reads as rewritten:

"§ 106-981. Manner of organizing.

A corporation formed under this Article shall be organized and incorporated in the manner provided for organization of corporations under the general corporation laws of the State of North Carolina, except where such provisions are in conflict with this Article. The certificate of organization of any such corporation shall contain a statement that it is organized under the provisions of this Article and that it consents to be and shall be at all times subject to the rules and supervision of the ~~Secretary, Commissioner~~, and shall set forth as or among its purposes the protection and development of forests and the purchase, acquisition, sale, conveyance and other dealing in the same and the products therefrom, subject to the rules from time to time imposed by the ~~Secretary, Commissioner~~."

SECTION 5.(c) G.S. 106-982 reads as rewritten:

"§ 106-982. Directors.

There shall not be less than three directors, one of whom shall always be a person designated by the ~~Secretary, Commissioner~~, which one need not be a stockholder."

SECTION 5.(d) G.S. 106-1003 reads as rewritten:

"§ 106-1003. Deposit of receipts with State treasury.

1 All moneys paid to the ~~Secretary-Commissioner~~ for services rendered under the provisions
2 of this Article shall be deposited into the State treasury to the credit of the Department."

3 **SECTION 5.(e)** G.S. 106-1012(2) reads as rewritten:

4 "(2) "Approved practices" mean those silvicultural practices approved by the
5 ~~Secretary-Commissioner~~ for the purpose of commercially growing timber
6 through the establishment of forest stands, of insuring the proper regeneration
7 of forest stands to commercial production levels following the harvest of
8 mature timber, or of insuring maximum growth potential of forest stands to
9 commercial production levels. Such practices shall include those required to
10 accomplish site preparation, natural and artificial forestation, noncommercial
11 removal of residual stands for silvicultural purposes, cultivation of established
12 young growth of desirable trees for silvicultural purposes, and improvement
13 of immature forest stands for silvicultural purposes. In each case, approved
14 practices will be determined by the needs of the individual forest stand. These
15 practices shall include existing practices and such practices as are developed
16 in the future to insure both maximum forest productivity and environmental
17 protection."
18

19 **DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO**
20 **ADDRESS MISLABELING OF PLANT-BASED PRODUCTS AS "MILK"**

21 **SECTION 6.(a)** The following definitions apply to this section:

- 22 (1) "Department" means the Department of Agriculture and Consumer Services.
23 (2) "FDA" means the United States Food and Drug Administration.
24 (3) "Milk" means the lacteal secretion, practically free from colostrum, obtained
25 by the complete milking of one or more healthy hooved mammals. Hooved
26 mammals include, but are not limited to, the members of the Order
27 Cetartiodactyla, such as: Family Bovidae (cattle, water buffalo, sheep, goats,
28 yaks, etc.), Family Camelidae (llamas, alpacas, camels, etc.), Family Cervidae
29 (deer, reindeer, moose, etc.), and Family Equidae (horses, donkeys, etc.).

30 **SECTION 6.(b)** In accordance with the established standard of identity for milk
31 defined in 21 C.F.R. § 131.110 and the Pasteurized Milk Ordinance, the Department shall
32 immediately develop an enforcement plan to enforce FDA's standard of identity for milk as
33 adopted in the North Carolina Administrative Code to prohibit the sale of plant-based products
34 mislabeled as milk.

35 **SECTION 6.(c)** No later than 90 days after the effective date of this act, the
36 Department shall begin to implement its enforcement plan, which shall include, but is not limited
37 to, notification of the Department's intent to embargo all mislabeled products offered for sale in
38 this State. All plant-based products displayed for sale in this State shall be labeled in accordance
39 with FDA's standard of identity for milk and the Pasteurized Milk Ordinance no later than
40 January 1, 2019.
41

42 **SET QUORUM FOR AGRICULTURE AND FORESTRY AWARENESS STUDY**
43 **COMMISSION**

44 **SECTION 7.** G.S. 120-150 reads as rewritten:

45 **"§ 120-150. Creation; appointment of members.**

46 There is created an Agriculture and Forestry Awareness Study Commission. Members of the
47 Commission shall be citizens of North Carolina who are interested in the vitality of the
48 agriculture and forestry sectors of the State's economy. Members shall be as follows:

- 49 (1) Three appointed by the Governor.
50 (2) Three appointed by the President Pro Tempore of the Senate.
51 (3) Three appointed by the Speaker of the House.

- (4) The chairs of the House Agriculture Committee.
- (5) The chairs of the Senate Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's designee.
- (7) A member of the Board of Agriculture designated by the chair of the Board of Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's designee.
- (9) The President of the North Carolina State Grange or the President's designee.
- (10) The Secretary of Environmental Quality or the Secretary's designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochair. The President Pro Tempore of the Senate and the Speaker of the House of Representatives may each appoint an additional member of the Senate and House, respectively, to serve as cochair. If appointed, these cochair shall be voting members of the Commission. A quorum of the Commission is nine members."

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION STUDIES

SECTION 8.(a) The Agriculture and Forestry Awareness Study Commission shall study all of the following matters:

- (1) Requiring the holders of unused rights-of-way and utility easements to offer the easements to the underlying property owners for fair market value.
- (2) The advisability of excluding property enrolled in present use value taxation from rural fire protection district and county service district taxes.

SECTION 8.(b) The Agriculture and Forestry Awareness Study Commission shall complete the studies required by subsection (a) of this section and report its findings and recommendations, including any legislative proposals, to the General Assembly by January 1, 2019.

MANDATORY RECORD NOTICE OF PROXIMITY TO FARMLANDS

SECTION 9. G.S. 106-741 reads as rewritten:

"§ 106-741. Record notice of proximity to farmlands.

(a) ~~Any county that has a computerized land records system may require that such~~ All counties shall require that land records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district.

(b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).

(c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article."

CLARIFY AND AMEND NORTH CAROLINA RIGHT TO FARM LAW

SECTION 10.(a) G.S. 106-700 reads as rewritten:

"§ 106-700. Legislative determination and declaration of policy.

1 It is the declared policy of the State to conserve and protect and encourage the development
2 and improvement of its agricultural land and forestland for the production of food, fiber, and
3 other products. When there are changed conditions in the locality near agricultural and forestry
4 areas, including other land uses that extend into agricultural and forest-forestry areas, agricultural
5 and forestry operations often become the subject of nuisance suits. As a result, agricultural and
6 forestry operations are sometimes forced to cease. Many others are discouraged from making
7 investments in farm and forest improvements. It is the purpose of this Article to reduce the loss
8 to the State of its agricultural and forestry resources by limiting the circumstances under which
9 an agricultural or forestry operation may be deemed to be a nuisance."

10 **SECTION 10.(b)** G.S. 106-701 reads as rewritten:

11 **"§ 106-701. When agricultural and forestry operation, etc., not constituted nuisance by**
12 **changed conditions in or about the locality outside of the operation.**

13 (a) No agricultural or forestry operation or any of its appurtenances shall be or become a
14 nuisance, private or public, by any changed conditions in or about the locality outside of the
15 operation after the operation has been in operation for more than one year, when such operation
16 was not a nuisance at the time the operation began. For purposes of this section, the phrase
17 "changed conditions" includes, but is not limited to, a change in ownership, occupancy, or the
18 use of the property that is affected by the alleged nuisance.

19 (a1) The provisions of subsection (a) of this section shall not apply when the plaintiff
20 demonstrates that the agricultural or forestry operation has undergone a fundamental change. A
21 fundamental change to the operation does not include any of the following:

- 22 (1) A change in ownership or size.
- 23 (2) An interruption of farming for a period of no more than three years.
- 24 (3) Participation in a government-sponsored agricultural program.
- 25 (4) Employment of new technology.
- 26 (5) A change in the type of agricultural or forestry product produced.

27 ~~(a2) The provisions of subsection (a) of this section shall not apply whenever a nuisance~~
28 ~~results from the negligent or improper operation of any agricultural or forestry operation or its~~
29 ~~appurtenances.~~

30 (a3) The activities conducted by an agricultural or forestry operation are presumed not to
31 be a nuisance unless the plaintiff shows by clear and convincing evidence that the operation has
32 not been managed in a manner substantially consistent with (i) practices, methods, or procedures
33 that are generally accepted and routinely utilized by other agricultural and forestry operations in
34 region and (ii) applicable laws and regulations.

35 (b) For the purposes of this Article, "agricultural operation" includes, without limitation,
36 any facility for the production for commercial purposes of crops, livestock, poultry, livestock
37 products, or poultry products.

38 (b1) For the purposes of this Article, "forestry operation" shall mean those activities
39 involved in the growing, managing, and harvesting of trees.

40 (c) The provisions of subsection (a) shall not affect or defeat the right of any person, firm,
41 or corporation to recover damages for any injuries or damages sustained by him on account of
42 any pollution of, or change in condition of, the waters of any stream or on the account of any
43 overflow of lands of any such person, firm, or corporation.

44 (d) Any and all ordinances of any unit of local government now in effect or hereafter
45 adopted that would make the operation of any such agricultural or forestry operation or its
46 appurtenances a nuisance or providing for abatement thereof as a nuisance in the circumstance
47 set forth in this section are and shall be null and void; ~~provided, however, that the provisions of~~
48 ~~this subsection shall not apply whenever a nuisance results from the negligent or improper~~
49 ~~operation of any such agricultural or forestry operation or any of its appurtenances. Provided~~
50 ~~further, void. Provided, however, that the provisions shall not apply whenever a nuisance results~~

from an agricultural or forestry operation located within the corporate limits of any city at the time of enactment hereof.

(e) This section shall not be construed to invalidate any contracts heretofore made but insofar as contracts are concerned, it is only applicable to contracts and agreements to be made in the future.

(f) In a nuisance action against an agricultural or forestry operation, the court shall award costs and expenses, including reasonable attorneys' fees, to:

(1) The agricultural or forestry operation when the court finds the operation was not a nuisance and the nuisance action was frivolous or malicious; or

(2) The plaintiff when the court finds the agricultural or forestry operation was a nuisance and the operation asserted an affirmative defense in the nuisance action that was frivolous and malicious."

SECTION 10.(c) This section is effective when it becomes law.

DIRECT UTILITIES COMMISSION TO ADOPT RULES FOR CERTAIN NATURAL GAS MARGIN REVENUE AGREEMENTS

SECTION 11. No later than October 1, 2018, the Utilities Commission shall adopt rules to establish reasonable limitations on the amount by which a natural gas local distribution company may increase its margin revenues, in the event that actual construction costs exceed the estimated construction costs provided in the agreement, in an agreement between the natural gas local distribution company and a customer that provides for cost recovery in connection with the construction of facilities and extension of natural gas service to a property used for bona fide farm purposes.

AMEND SOIL AND WATER CONSERVATION DISTRICT SUPERVISOR CONTINUING EDUCATION REQUIREMENTS

SECTION 12. G.S. 139-7.2 reads as rewritten:

"§ 139-7.2. Training of elective and appointive district supervisors.

(a) All district supervisors, whether elected or appointed, shall complete a minimum of six clock hours of training ~~annually~~ per term of service.

(b) The training shall include soil, water, and natural resources conservation and the duties and responsibilities of district supervisors.

(c) The training may be provided by the School of Government at the University of North Carolina at Chapel Hill, or other qualified sources as approved by the Soil and Water Conservation Commission."

SALES TAX EXEMPTION FOR A ZOO OPERATED BY A QUALIFYING FARMER

SECTION 13.(a) G.S. 105-164.13 reads as rewritten:

"§ 105-164.13. Retail sales and use tax.

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

(70) Sales of items listed in G.S. 105-164.13E purchased by a qualifying farmer for use in a zoo operated by a qualifying farmer. For purposes of this subdivision, the term "qualifying farmer" has the same meaning as defined in G.S. 105-164.13E(a). Income from zoo operations are excluded for purposes of the income requirements for a qualifying farmer."

SECTION 13.(b) This section becomes effective retroactively to January 1, 2011, and applies to purchases made on or after that date. A person who paid sales and use tax for a return period ending prior to the date this section becomes law on an item exempt from sales and

use tax pursuant to G.S. 105-164.13(70), as enacted by this section, may apply to the Department of Revenue for a refund of any excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2019. Notwithstanding G.S. 105-241.6, a request for a refund received after this date is barred and the provisions of G.S. 105-164.11 do not apply.

PROVIDE UNIFORMITY TO ASSESSMENT OF FARM MACHINERY

SECTION 14.(a) G.S. 105-317.1 reads as rewritten:

"§ 105-317.1. Appraisal of personal property; elements to be considered.

(a) Appraisal Elements. — Whenever any personal property is appraised it shall be the duty of the persons making appraisals to consider the following as to each item (or lot of similar items):

- (1) The replacement cost of the property;
- (2) The sale price of similar property;
- (3) The age of the property;
- (4) The physical condition of the property;
- (5) The productivity of the property;
- (6) The remaining life of the property;
- (7) The effect of obsolescence on the property;
- (8) The economic utility of the property, that is, its usability and adaptability for industrial, commercial, or other purposes; and
- (9) Any other factor that may affect the value of the property.

(b) Business Property. — In determining the true value of taxable tangible personal property held and used in connection with the mercantile, manufacturing, producing, processing, or other business enterprise of any taxpayer, the persons making the appraisal shall consider any information as reflected by the taxpayer's records and as reported by the taxpayer to the North Carolina Department of Revenue and to the Internal Revenue Service for income tax purposes, taking into account the accuracy of the taxpayer's records, the taxpayer's method of accounting, and the level of trade at which the taxpayer does business.

(b1) Farm Equipment. — In determining the true value of taxable farm equipment, the person making the appraisal may use any of the appraisal methods listed in subsection (a) of this section and must consider relevant taxpayer information as required under subsection (b) of this section. The Department must publish a depreciation schedule for farm equipment to assist counties that use the cost approach to appraise this equipment. The Department must make the schedule available electronically on its Web site. A county that uses a cost approach method to appraise this equipment must use the depreciation schedule published pursuant to this subsection.

(c) Appeal Process. — A taxpayer who owns personal property taxable in the county may appeal the value, situs, or taxability of the property within 30 days after the date of the initial notice of value. If the assessor does not give separate written notice of the value to the taxpayer at the taxpayer's last known address, then the tax bill serves as notice of the value of the personal property. The notice must contain a statement that the taxpayer may appeal the value, situs, or taxability of the property within 30 days after the date of the notice. Upon receipt of a timely appeal, the assessor must arrange a conference with the taxpayer to afford the taxpayer the opportunity to present any evidence or argument regarding the value, situs, or taxability of the property. Within 30 days after the conference, the assessor must give written notice to the taxpayer of the assessor's final decision. Written notice of the decision is not required if the taxpayer signs an agreement accepting the value, situs, or taxability of the property. If an agreement is not reached, the taxpayer has 30 days from the date of the notice of the assessor's final decision to request review of that decision by the board of equalization and review or, if that board is not in session, by the board of county commissioners. Unless the request for review is given at the conference, it must be made in writing to the assessor. Upon receipt of a timely

1 request for review, the provisions of G.S. 105-322 or G.S. 105-325, as appropriate, must be
2 followed."

3 **SECTION 14.(b)** This section is effective for taxes imposed for taxable years
4 beginning on or after July 1, 2019.

5
6 **CLARIFY CEMETERY PROPERTY TAX EXEMPTION**

7 **SECTION 15.** G.S. 105-278.2(a) reads as rewritten:

8 "(a) Real property set apart for burial purposes shall be exempted from taxation unless it
9 is owned and held for purposes of (i) sale or rental or (ii) sale of burial rights therein. No
10 application is required under G.S. 105-282.1 for property exempt under this subsection. A county
11 cannot deny the exemption provided under this subsection to a taxpayer that lacks a survey or
12 plat detailing the exempt property."

13
14 **SEVERABILITY CLAUSE AND EFFECTIVE DATE**

15 **SECTION 16.(a)** If any provision of this act or the application thereof to any person
16 or circumstances is held invalid, such invalidity shall not affect other provisions or applications
17 of this act which can be given effect without the invalid provision or application, and, to this end,
18 the provisions of this act are declared to be severable.

19 **SECTION 16.(b)** Except as otherwise provided, this act is effective when it becomes
20 law.



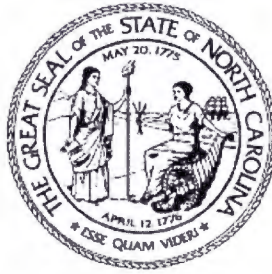
Ag/Natural Resources

June 5, 2018

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Gary Harris	NC Petroleum & C-stores
Chris Wall	PG
Tommy Seave	MUR
Tim Minton	NC HBA
Stew Webb	NC HBA
Tommy Stevens	Stevens Lobby
Dora Lassiter	NCSTA
KCB Hawley	RLA
Sarah Breakey	WCBF, EDF
Cady Thomas	Focus Carolina
Rhagen Jackson	" "
David F. Pell	NP
Emily Hoffman	NOON
Tien Cheng	NC DARS
Jerry Schick	NC Tobacco & Agribusiness
Andy Ellen	NLRML
Elizabeth Robins	NCR
Katy Kiy	NLRML
Scott Croston	KEANC





Ag/Natural Resources

June 5, 2018

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NAME	FIRM OR AGENCY
<i>[Signature]</i>	CFSA
Brooks Rainey Pearson	SELC
Henry Jones	NC Bulky Fed.
Isaiah Moore	ATT
Trey Ruben	AT&T
Steve Brewer	CTL
Nick Billman	WM
DAVID SNEED	CCA NC
Carl Gilmore	Jim Harrell
Louise BARNHART	NC GRANGE
JEFF BARNHART	MWC
Rochelle Spunko	CFSA
Chris Westfall	SELC
Chris White	DEQ
Amber Harris	NRAC
David McGowan	NCPC
David Brannell	DOJ
Al Groth	WEC

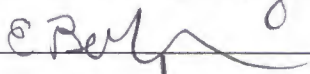

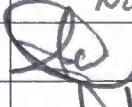
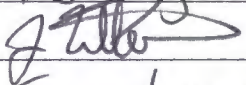




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June 5, 2018

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NAME	FIRM OR AGENCY
Rachel Posey	Southern Env Law Center
	MPC
Doug Henry	NCPCM
Derek Kelly	CTR
Sarah Collins	NCLM
Shuren Kook	CAH
Parker Smith	NCPC
Angie Maier	NCPC
Jon Steeves	Wanchese Fish Co.
Paul Sherman	NCFB
JAKE PARKER	NCFB
	 NIP
T.J. Bybee	MWC
	
Jon Lanier	NCDA
Commissioner Troxler	NCDA
Laura K. Turner	NCDA
Joe Reardon	NCDN





Ag/Natural Resources

June 5, 2018

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NAME	FIRM OR AGENCY
Zane Hedgerick	NCDR
Kathy Ringberg	BD
Perry Huffer	SoG
John Feldmann	NCCN
Shrikar Nanna	DEQ
Sallie James	Governor's Office
Korey Kiger	NCRMA
Isaac Nicholls	Governor's Office
STEVE MURPHY	NC DMF/DEQ
Nancy D. Fish	NC DMF/DEQ
Brian Gregory	Curter
Kelli Kukuna	Duke Energy
Susan Hill	Duke Energy
Amish Mendavilli	NC State
Alex Arthur	JLF
John Hartzel	MFS
Will Morgan	MFS
Nathan Babcock	PPAB



VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

6/5/2018

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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VISITOR REGISTRATION SHEET

Agriculture/Environment/Natural Resources Committee

6/5/2018

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

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Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 6, 2018, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 361	Support Shellfish Industry.	Representative Lewis

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, June 06, 2018

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

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

HB 361

Coastal Crescent Trail/State Parks System.

Draft Number:	H361-PCS40748-SBf-39
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	Yes

TOTAL REPORTED: 1

Senator Bill Cook will handle HB 361



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Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 6, 2018 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:01 a.m. on June 6, 2018 in Room 1027/1128 of the Legislative Building. 11 members were present.

Senator Bill Cook, Chair, presided.

Sen Cook: Welcome. Let's recognize our Sergeant-at-Arms and Senate Pages. We need a motion to withdraw the PCS heard yesterday and to consider the updated PCS. Sen. Woodard moves to accept the updated PCS. Sen. Sanderson presides over the meeting while Sen. Cook presents the bill.

HB 361 Support Shellfish Industry. (Representative Lewis)

Sen Cook: Relatively simple, we only made a few changes. Brief summary addressing the following matters:

1. Prohibit the Shellfish Enterprise Area, which is the advance siting process, from state waters in the Brunswick and Core Sound moratoriums.
2. In regards to the residency requirement – require for the entities to have a NC registered business and a commercial fishing license with a state residency requirement to operate the facility. Thus ensuring that it's NC working watermen operating the farms.
3. Clarify that the 300 acre cap shall not be contiguous, and is only for the Pamlico Sound. And that no oyster farm can be larger than 50 acres.

Sen. Tom McInnis: Presents a technical amendment to correct a drafting mistake.

The amendment is adopted.

Sen. Barrett: Seeks information on water column leasing.

Mr. Steve Murphey, director of the N.C. Division of Marine Fisheries: Addresses Sen. Barrett's question.

Sen Sanderson: All in favor of a favorable report on the PCS.

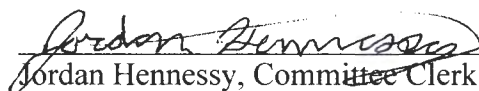
Aye: Unanimous Nay: None

Motion carries

The meeting adjourned at 9:13 a.m.



Senator Bill Cook, Chair
Presiding



Jordan Hennessy, Committee Clerk





HOUSE BILL 361: Support Shellfish Industry.

2017-2018 General Assembly

Committee:	Senate Finance	Date:	June 7, 2018
Introduced by:	Reps. Shepard, McElraft, White, Strickland	Prepared by:	Jeff Hudson
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *House Bill 361 would make various changes to State law governing shellfish aquaculture and harvest.*

BILL ANALYSIS:

SHELLFISH BOTTOM LEASING AMENDMENTS

Section 1.1.(a) would make various changes to the shellfish cultivation leasing statute as follows:

- Provides a definition of natural shellfish bed that includes a 10 bushels of shellfish per acre threshold.
- Provide that shellfish leasing will be compatible with other uses of marine and estuarine resources near the leased area. Under current law, shellfish leasing must be compatible with other marine and estuarine resources and the statute is silent as to proximity to the shellfish leasing.
- Provide that shellfish leasing will not unreasonably conflict with the riparian rights of adjacent property owners. Under current law, shellfish leasing must not impinge upon the rights of riparian owners.
- Provide a new requirement that shellfish leasing must be a minimum of 100 feet from the shoreline of any private property. The 100-foot minimum would not apply when (i) the adjacent private property is owned by the lease applicant or (ii) the owner of the private property has provided written, notarized consent.
- Provide that shellfish leasing may not occur in waters that have been classified as prohibited, restricted, or conditionally approved closed with respect to shellfish harvesting at the time of filing of the lease application. Under current law, shellfish leasing may not occur in waters that the State Health Director has recommended be closed to shellfish harvest due to pollution.
- Provide that acreage limits for shellfish leasing will be as follows:
 - For coastal fishing waters located in and south of Core Sound, no person, business, or family may hold more than 50 acres of shellfish leases and no individual lease may be more than 10 acres.
 - For other coastal fishing waters, no person, business, or family may hold more than 300 acres of shellfish leases and no individual lease may be more than 50 acres.

Under current law, the limit is 50 acres for all coastal fishing waters.

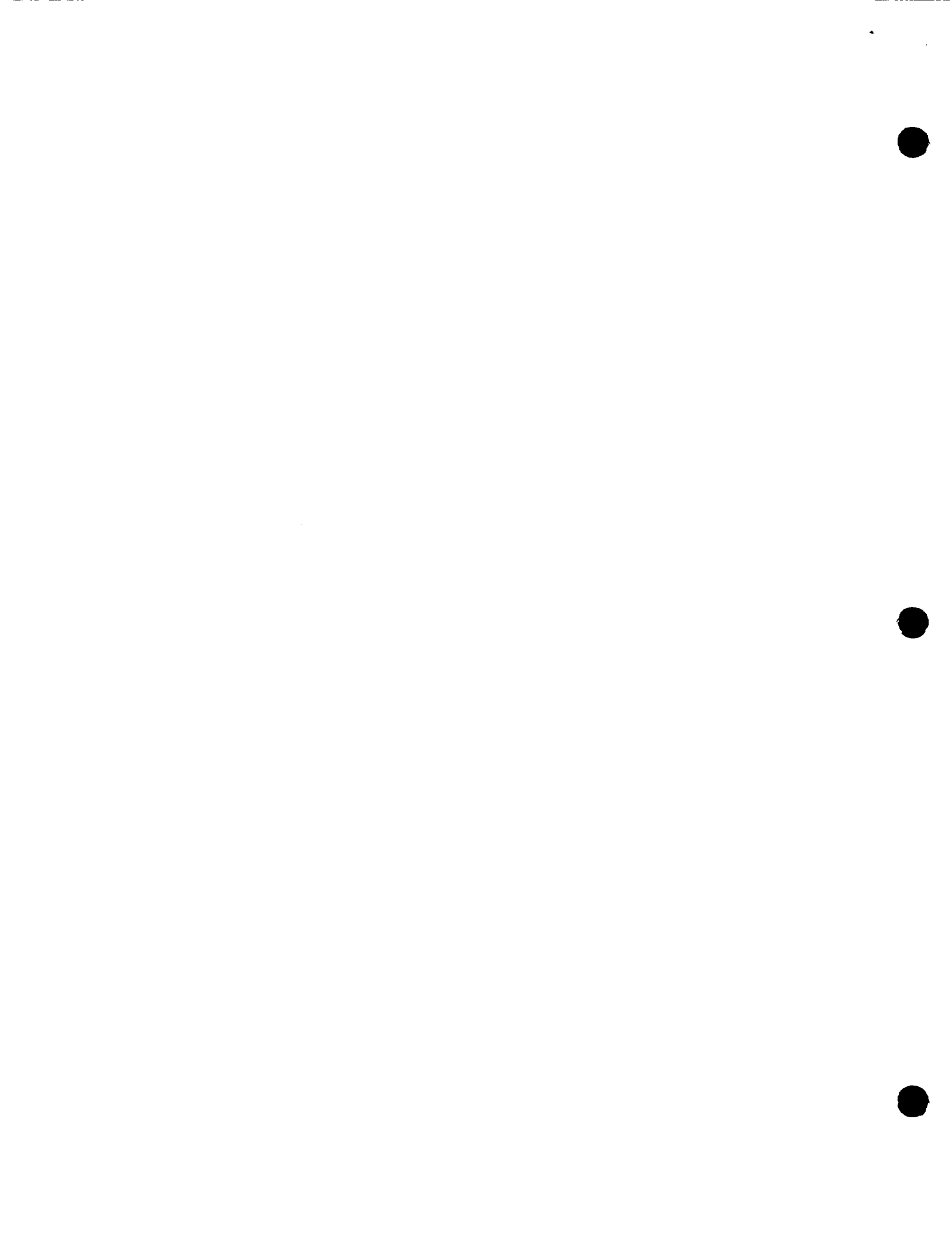
- Provide that upon termination of shellfish leases, the Secretary may either:

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



House Bill 361

Page 2

- Re-lease the area to the first qualified applicant to file an application.
 - Designate the area as a Shellfish Aquaculture Enterprise Area.
- Establish a new process by which parties, other than the permit applicant, affected by the issuance of a shellfish leasing permit could appeal the permit decision. Such parties could only file a contested case if the new Shellfish Cultivation Lease Review Committee determined that a contested case hearing would be appropriate.
- Establish a specific definition of resident for the purposes of shellfish leasing. The definition is the same as the existing definition except that for business entities and organizations they would not be required to have their principal place of business in North Carolina.

Section 1.1.(b) and (c) would direct the North Carolina Policy Collaboratory (Collaboratory) and the Division of Marine Fisheries of the Department of Environmental Quality (Division) to:

- Study and recommend whether a Shellfish Mariculture Commission should be established to oversee shellfish bottom leasing and other aspects of shellfish aquaculture in the State.
- Establish a stakeholder process to study and recommend whether the shellfish leasing moratoria in Brunswick County and Core Sound should apply to Shellfish Aquaculture Enterprise Areas.

ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS

Section 1.2 would direct the Chair of the Marine Fisheries Commission to establish the Shellfish Cultivation Lease Review Committee and authorize the Commission to adopt rules for the appeals process.

EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE SITING

Section 1.3.(a) would allow for the transport of seed oysters and seed clams from aquaculture operations in prohibited waters unless the Secretary of Environmental Quality determined that it would be a risk to public health. Under current law, such transport is not allowed.

Section 1.3.(b) would allow for the issuance of an Under Dock Oyster Culture Permit in polluted waters if the owner of the dock signs a written acknowledgement that the oysters are intended only for restoration purposes and not consumption.

SHELLFISH AQUACULTURE ENTERPRISE AREAS

Section 1.4 defines "Shellfish Aquaculture Enterprise Area" to mean an area designated and permitted by the Department of Environmental Quality that is made available for shellfish leasing.

MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY AREA

Section 1.5 would provide that until July 1, 2020, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established from the Wrightsville Beach Bridge south to Myrtle Grove Sound.



House Bill 361

Page 3

MORATORIUM ON SHELLFISH LEASING IN BOGUE SOUND

Section 1.6 would provide that until July 1, 2020, a moratorium on new shellfish cultivation leases and new water column leases for aquaculture would be established for Bogue Sound. During the moratorium, the Division will identify areas in Bogue Sound where there are fewer anticipated user conflicts with shellfish leases. The Division will report its findings to the General Assembly no later than July 1, 2019.

REVISE OYSTER STUDIES REPORTING DATES

Section 2.1.(a) would provide that the study that directs the Chief Sustainability Officer of the University of North Carolina at Chapel Hill to convene a stakeholder working group to study and advance efforts to ecologically restore and achieve economic stability of the shellfish aquaculture industry may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1.(b) would provide that the deadline for the Collaboratory to prepare and deliver a Shellfish Mariculture Plan may be extended from December 31, 2018 to June 30, 2019, if the University determines that additional time is needed to complete the study.

Section 2.1.(c) would provide that the deadline for the Collaboratory and stakeholders to develop plans and recommendations for economic development related to promotion of the State's shellfish harvesting heritage may be extended from December 31, 2018 to June 30, 2019, if the Collaboratory and stakeholders determine that additional time is needed to complete the study.

EFFECTIVE DATE: The act would become effective July 1, 2018.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 361
PROPOSED SENATE COMMITTEE SUBSTITUTE H361-CSSBf-361 [v.4]

06/05/2018 08:04:29 PM

Short Title: Support Shellfish Industry.

(Public)

Sponsors:

Referred to:

March 16, 2017

A BILL TO BE ENTITLED
AN ACT TO PROVIDE ADDITIONAL SUPPORT FOR THE STATE'S SHELLFISH
INDUSTRY BY REFORMING AND MODERNIZING THE STATUTES GOVERNING
SHELLFISH AND AQUACULTURE BOTTOMLAND LEASING.

The General Assembly of North Carolina enacts:

PART I. SHELLFISH AQUACULTURE REFORMS

SHELLFISH BOTTOM LEASING AMENDMENTS

SECTION 1.1.(a) G.S. 113-202 reads as rewritten:

"§ 113-202. New and renewal leases for shellfish cultivation; termination of leases issued
prior to January 1, 1966.

(a) To increase the use of suitable areas underlying coastal fishing waters for the
production of shellfish, the Secretary may grant shellfish cultivation leases to persons who reside
~~in North Carolina~~ under the terms of this section when the Secretary determines, in accordance
with his duty to conserve the marine and estuarine resources of the State, that the public interest
will benefit from issuance of the lease. Suitable areas for the production of shellfish shall meet
the following minimum standards:

- (1) The area leased must be suitable for the cultivation and harvesting of shellfish
in commercial quantities.
- (2) The area leased must not contain a natural shellfish bed. For purposes of this
subdivision, a "natural shellfish bed" is an area containing at least 10 bushels
of shellfish per acre that does not include a previously leased area terminated
by the Secretary for failure to meet the requirements of this section within the
12 months directly preceding the date of the lease application.
- (3) Cultivation of shellfish in the leased area will be compatible with lawful
utilization by the public of other marine and estuarine ~~resources~~ resources near
the leased area. Other public uses which may be considered include, but are
not limited to, navigation, fishing and recreation.
- (4) Cultivation of shellfish in the leased area will not ~~impinge upon the rights of
riparian owners~~ unreasonably conflict with the riparian rights of adjacent
property owners.
- (4a) The leased area must be located a minimum of 100 feet from the shoreline of
any private property. The 100-foot minimum shall not apply when (i) the
adjacent private property is owned by the lease applicant or (ii) the owner of



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- 1 the private property has provided consent in the form of a written and
2 notarized statement.
- 3 (5) The area leased must not include an area designated for inclusion in the
4 Department's Shellfish Management Program.
- 5 (6) The area leased must not include ~~an area which the State Health Director has~~
6 ~~recommended be closed to shellfish harvest by reason of pollution waters that~~
7 have been classified as prohibited, restricted, or conditionally approved closed
8 with respect to shellfish harvesting at the time of filing of the lease application.
- 9 (7) The area leased under a single lease shall be as follows:
- 10 a. For coastal fishing waters located in and south of Core Sound, the area
11 leased under a single lease shall not be less than one-half acre or
12 exceed 10 acres, except in areas designated by the Department as
13 Shellfish Aquaculture Enterprise Areas under subsection (s) of this
14 section. For purposes of this subdivision, Core Sound shall have the
15 definition set forth in Section 1(b) of Chapter 44 of the 1993 Session
16 Laws.
- 17 b. For other coastal fishing waters, the area leased under a single lease
18 shall not be less than one-half acre or exceed 50 acres, except in areas
19 designated by the Department as Shellfish Aquaculture Enterprise
20 Areas under subsection (s) of this section.
- 21 (b) The Secretary may delete any part of an area proposed for lease or may condition a
22 lease to protect the public interest with respect to the factors enumerated in subsection (a) of this
23 section. The Secretary may not grant a new lease in an area heavily used for recreational
24 purposes. Except as prohibited by federal law, the Secretary shall not exclude any area from
25 leasing solely on the basis that the area contains submerged aquatic vegetation and shall make
26 specific findings based on the standards set forth in subsection (a) of this section prior to reaching
27 a decision not to grant or renew a lease for shellfish cultivation for any area containing submerged
28 aquatic vegetation.
- 29 (c) No person, including a corporate entity, or single family unit may acquire and hold
30 by lease, lease renewal, or purchase shellfish cultivation leases covering more than 50 acres of
31 ~~public bottoms under shellfish cultivation leases. the acreage of public bottoms set forth in this~~
32 subsection. For purposes of this subsection, the number of acres of leases held by a person
33 includes acres held by a corporation in which the person holds an interest. The Marine Fisheries
34 Commission may adopt rules to require the submission of information necessary to ensure
35 compliance with this subsection.
- 36 (1) With respect to coastal fishing waters located in and south of Core Sound, the
37 limit is 50 acres. For purposes of this subdivision, Core Sound shall have the
38 definition set forth in Section 1(b) of Chapter 44 of the 1993 Session Laws.
- 39 (2) With respect to other coastal fishing waters, the limit is 300 acres.
- 40 (d) Any person desiring to apply for a lease must make written application to the
41 Secretary on forms prepared by the Department containing such information as deemed
42 necessary to determine the desirability of granting or not granting the lease requested. Except in
43 the case of renewal leases, the application must be accompanied by a map or diagram made at
44 the expense of the applicant, showing the area proposed to be leased.
- 45 (d1) The map or diagram must conform to standards prescribed by the Secretary
46 concerning accuracy of map or diagram and the amount of detail that must be shown. If on the
47 basis of the application information and map or diagram the Secretary deems that granting the
48 lease would benefit the shellfish culture of North Carolina, the Secretary, in the case of initial
49 lease applications, must order an investigation of the bottom proposed to be leased. The
50 investigation is to be made by the Secretary or his authorized agent to determine whether the area
51 proposed to be leased is consistent with the standards in subsection (a) of this section and any

1 other applicable standards under this Article and the rules of the Marine Fisheries Commission.
2 In the event the Secretary finds the application inconsistent with the applicable standards, the
3 Secretary shall deny the application or propose that a conditional lease be issued that is consistent
4 with the applicable standards. In the event the Secretary authorizes amendment of the application,
5 the applicant must furnish a new map or diagram meeting requisite standards showing the area
6 proposed to be leased under the amended application. At the time of making application for an
7 initial lease, the applicant must pay a filing fee of two hundred dollars (\$200.00).

8 (e) The area of bottom applied for in the case of an initial lease or amended initial lease
9 must be as compact as possible, taking into consideration the shape of the body of water, the
10 consistency of the bottom, and the desirability of separating the boundaries of a leasehold by a
11 sufficient distance from any known natural shellfish bed to prevent the likelihood of disputes
12 arising between the leaseholder and members of the public taking shellfish from the natural bed.

13 (f) Within a reasonable time after receipt of an application that complies with subsection
14 (d), the Secretary shall notify the applicant of the intended action on the lease application. If the
15 intended action is approval of the application as submitted or approval with a modification to
16 which the applicant agrees, the Secretary shall conduct a public hearing in the county where the
17 proposed leasehold lies. The Secretary must publish at least two notices of the intention to lease
18 in a newspaper of general circulation in the county in which the proposed leasehold lies. The first
19 publication must precede the public hearing by more than 20 days; the second publication must
20 follow the first by seven to 11 days. The notice of intention to lease must contain a sufficient
21 description of the area of the proposed leasehold that its boundaries may be established with
22 reasonable ease and certainty and must also contain the date, hour and place of the hearing.

23 (g) After consideration of the public comment received and any additional investigations
24 the Secretary orders to evaluate the comments, the Secretary shall notify the applicant in person
25 or by certified or registered mail of the decision on the lease application. The Secretary shall also
26 notify persons who submitted comments at the public hearing and requested notice of the lease
27 decision. An applicant who is dissatisfied with the Secretary's decision ~~or another person~~
28 ~~aggrieved by the decision~~ may commence a contested case by filing a petition under
29 G.S. 150B-23 within ~~20~~ 30 days after receiving notice of the Secretary's decision. In the event
30 the Secretary's decision is a modification to which the applicant agrees, the lease applicant must
31 furnish an amended map or diagram before the lease can be issued by the Secretary. A person
32 other than the applicant who is aggrieved by the Secretary's decision may file a petition for a
33 contested case hearing only if the Shellfish Cultivation Lease Review Committee established
34 pursuant to G.S. 143B-289.57(f) determines that a hearing is appropriate. A request for a
35 determination of the appropriateness of a contested case hearing shall be made in writing and
36 received by the Review Committee within 30 days after the disputed decision is made. A
37 determination of the appropriateness of a contested case shall be made within 30 days after a
38 request for a determination is received and shall be based on whether the person seeking to
39 commence a contested case:

40 (1) Has alleged that the decision is contrary to a statute or rule;

41 (2) Is directly affected by the decision; and

42 (3) Has alleged facts or made legal arguments that demonstrate that the request
43 for the hearing is not frivolous.

44 If the Review Committee determines that a contested case is appropriate, the petition for a
45 contested case shall be filed within 30 days after the Review Committee makes its determination.
46 A determination that a person may not commence a contested case is a final agency decision and
47 is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on
48 judicial review, the court determines that the Review Committee erred in determining that a
49 contested case would not be appropriate, the court shall remand the matter for a contested case
50 hearing under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122.

1 Decisions in such cases shall be rendered pursuant to those rules, regulations, and other
2 applicable laws in effect at the time of the commencement of the contested case.

3 The applicant or another person aggrieved by a final decision under this section may appeal
4 the decision to the superior court of the county where the proposed lease or any part thereof is
5 located, pursuant to the provisions of Chapter 150B of the General Statutes.

6 (h) Repealed by Session Laws 1993, c. 466, s. 1.

7 (i) After a lease application is approved by the Secretary, the applicant shall submit to
8 the Secretary information sufficient to define the bounds of the area approved for leasing with
9 markers in accordance with the rules of the Commission. The information shall conform to
10 standards prescribed by the Secretary concerning accuracy and the amount of detail to be shown.
11 When information is submitted, the boundaries are marked and all fees and rents due in advance
12 are paid, the Secretary shall execute the lease on forms approved by the Attorney General. The
13 Secretary is authorized, with the approval of the lessee, to amend an existing lease by reducing
14 the area under lease or by combining contiguous leases without increasing the total area leased.
15 The information required by this subsection may be based on coordinate information produced
16 using a device equipped to receive global positioning system data.

17 (j) Initial leases begin upon the issuance of the lease by the Secretary and expire at noon
18 on the first day of July following the tenth anniversary of the granting of the lease. Renewal
19 leases are issued for a period of 10 years from the time of expiration of the previous lease. At the
20 time of making application for renewal of a lease, the applicant must pay a filing fee of one
21 hundred dollars (\$100.00). The rental for initial leases is one dollar (\$1.00) per acre until noon
22 on the first day of July following the first anniversary of the lease. Thereafter, for initial leases
23 and from the beginning for renewals of leases entered into after that date, the rental is ten dollars
24 (\$10.00) per acre per year. Rental must be paid annually in advance prior to the first day of July
25 each year. Upon initial granting of a lease, the pro rata amount for the portion of the year left
26 until the first day of July must be paid in advance at the rate of one dollar (\$1.00) per acre per
27 year; then, on or before the first day of July next, the lessee must pay the rental for the next full
28 year.

29 (k) Except as restricted by this Subchapter, leaseholds granted under this section are to
30 be treated as if they were real property and are subject to all laws relating to taxation, sale, devise,
31 inheritance, gift, seizure and sale under execution or other legal process, and the like. Leases
32 properly acknowledged and probated are eligible for recordation in the same manner as
33 instruments conveying an estate in real property. Within 30 days after transfer of beneficial
34 ownership of all or any portion of or interest in a leasehold to another, the new owner must notify
35 the Secretary of such fact. Such transfer is not valid until notice is furnished the Secretary. In the
36 event such transferee is a nonresident, the Secretary must initiate proceedings to terminate the
37 lease.

38 (l) Upon receipt of notice by the Secretary of any of the following occurrences, he must
39 commence action to terminate the leasehold:

- 40 (1) Failure to pay the annual rent in advance.
- 41 (2) Failure to file information required by the Secretary upon annual remittance
42 of rental or filing false information on the form required to accompany the
43 annual remittance of rental.
- 44 (3) Failure by new owner to report a transfer of beneficial ownership of all or any
45 portion of or interest in the leasehold.
- 46 (4) Failure to mark the boundaries in the leasehold and to keep them marked as
47 required in the rules of the Marine Fisheries Commission.
- 48 (5) Failure to utilize the leasehold on a continuing basis for the commercial
49 production of shellfish.
- 50 (6) Transfer of all or part of the beneficial ownership of a leasehold to a
51 nonresident.

(7) Substantial breach of compliance with the provisions of this Article or of rules of the Marine Fisheries Commission governing use of the leasehold.

(8) Failure to comply with the training requirements established by the Marine Fisheries Commission pursuant to G.S. 113-201(c).

(11) The Marine Fisheries Commission is authorized to make rules defining commercial production of shellfish, based upon the productive potential of particular areas climatic or biological conditions at particular areas or particular times, availability of seed shellfish, availability for purchase by lessees of shells or other material to which oyster spat may attach, and the like. Commercial production may be defined in terms of planting effort made as well as in terms of quantities of shellfish harvested. Provided, however, that if a lessee has made a diligent effort to effectively and efficiently manage his lease according to accepted standards and practices in such management, and because of reasons beyond his control, such as acts of God, such lessee has not and cannot meet the requirements set out by the Marine Fisheries Commission under the provisions of this subsection, his leasehold shall not be terminated under subdivision (5) of subsection (l) of this section.

(m) In the event the leaseholder takes steps within 30 days to remedy the situation upon which the notice of intention to terminate was based and the Secretary is satisfied that continuation of the lease is in the best interests of the shellfish culture of the State, the Secretary may discontinue termination procedures. Where there is no discontinuance of termination procedures, the leaseholder may initiate a contested case by filing a petition under G.S. 150B-23 within 30 days of receipt of notice of intention to terminate. Where the leaseholder does not initiate a contested case, or the final decision upholds termination, the Secretary must send a final letter of termination to the leaseholder. The final letter of termination may not be mailed sooner than 30 days after receipt by the leaseholder of the Secretary's notice of intention to terminate, or of the final agency decision, as appropriate. The lease is terminated effective at midnight on the day the final notice of termination is served on the leaseholder. The final notice of termination may not be issued pending hearing of a contested case initiated by the leaseholder.

Service of any notice required in this subsection may be accomplished by certified mail, return receipt requested; personal service by any law-enforcement officer; or upon the failure of these two methods, publication. Service by publication shall be accomplished by publishing such notices in a newspaper of general circulation within the county where the lease is located for at least once a week for three successive weeks. The format for notice by publication shall be approved by the Attorney General.

(n) Upon final termination of any leasehold, ~~the bottom in question is thrown open to the public for use in accordance with laws and rules governing use of public grounds generally. the~~ Secretary may either (i) re-lease the area to the first qualified applicant to file an application following the procedures set forth in this Article for renewal of a lease or (ii) designate the area as a Shellfish Aquaculture Enterprise Area under subsection (s) of this section. Within 30 days of final termination of the leasehold, the former leaseholder shall remove all abandoned markers and gear denominating the area of the leasehold as a private bottom. The State may, after 10 days' notice to the owner of the abandoned markers thereof, ~~remove the abandoned structure and markers and gear.~~ have the area cleaned up. The cost of such removal and cleanup shall be payable by the owner of the abandoned markers and gear and the State may bring suit to recover the ~~costs thereof.~~ costs, including legal fees.

(o) Every year between January 1 and February 15 the Secretary must mail to all leaseholders a notice of the annual rental due and include forms designed by him for determining the amount of shellfish or shells planted on the leasehold during the preceding calendar year, and the amount of harvest gathered. Such forms may contain other pertinent questions relating to the utilization of the leasehold in the best interests of the shellfish culture of the State, and must be executed and returned by the leaseholder with the payment of his rental. Any leaseholder or his

1 agent executing such forms for him who knowingly makes a false statement on such forms is
2 guilty of a Class 1 misdemeanor.

3 (p) All leases and renewal leases granted after the effective date of this Article are made
4 subject to this Article and to reasonable amendment of governing statutes, rules of the Marine
5 Fisheries Commission, and requirements imposed by the Secretary or his agents in regulating the
6 use of the leasehold or in processing applications of rentals. This includes such statutory increase
7 in rentals as may be necessitated by changing conditions and refusal to renew lease after
8 expiration, in the discretion of the Secretary. No increase in rentals, however, may be given
9 retroactive effect.

10 The General Assembly declares it to be contrary to public policy to the oyster and clam
11 bottoms which were leased prior to January 1, 1966, and which are not being used to produce
12 oysters and clams in commercial quantities to continue to be held by private individuals, thus
13 depriving the public of a resource which belongs to all the people of the State. Therefore, when
14 the Secretary determines, after due notice to the lessee, and after opportunity for the lessee to be
15 heard, that oysters or clams are not being produced in commercial quantities, due to the lessee's
16 failure to make diligent effort to produce oysters and clams in commercial quantities, the
17 Secretary may decline to renew, at the end of the current term, any oyster or clam bottom lease
18 which was executed prior to January 1, 1966. The lessee may appeal the denial of the Secretary
19 to renew the lease by initiating a contested case pursuant to G.S. 150B-23. In such contested
20 cases, the burden of proof, by the greater weight of the evidence, shall be on the lessee.

21 (q) Repealed by Session Laws 1983, c. 621, s. 16.

22 (r) A lease under this section shall include the right to place devices or equipment related
23 to the cultivation or harvesting of marine resources on or within 18 inches of the leased bottom.
24 Devices or equipment not resting on the bottom or extending more than 18 inches above the
25 bottom will require a water column lease under G.S. 113-202.1.

26 (s) To facilitate shellfish aquaculture opportunities through advanced siting and
27 preapprovals from relevant federal and State agencies, the Secretary may establish Shellfish
28 Aquaculture Enterprise Areas. The Secretary shall only issue nontransferrable leases to residents
29 of North Carolina within designated Shellfish Aquaculture Enterprise Areas. Any leased parcel
30 within a Shellfish Aquaculture Enterprise Area that is relinquished or terminated shall revert to
31 the State and be made available to other applicants.

32 (t) For purposes of this section, a "resident" is any of the following:

33 (1) Individuals. – One who at the time in question has resided in North Carolina
34 for the preceding six months or has been domiciled in North Carolina for the
35 preceding 60 days. When domicile in the State for a period of 60 days up to
36 six months is the basis for establishing residence, the individual must sign a
37 certificate on a form supplied by the Department or the Wildlife Resources
38 Commission, as the case may be, stating the necessary facts and the intent to
39 establish domicile here.

40 (2) Corporations. – A corporation which is chartered under the laws of North
41 Carolina.

42 (3) Partnerships. – A partnership in which all partners are residents of North
43 Carolina.

44 (4) Other Associations and Groups Fitting the Definition of Person. – An
45 association or group principally composed of individual residents of North
46 Carolina and organized for a purpose that contemplates more involvement or
47 contact with this State than any other state.

48 (5) Military Personnel and Their Dependents. – A member of the Armed Forces
49 of the United States stationed at a military facility in North Carolina, the
50 member's spouse, and any dependent under 18 years of age residing with the

member are deemed residents of the State, of the county in which they live, and also, if different, of any county in which the military facility is located.

(6) Students. – Nonresident students attending a university, college, or community college in the State."

SECTION 1.1.(b) As part of the Shellfish Mariculture Plan required by Section 13.13 of S.L. 2017-57, the North Carolina Policy Collaboratory and the Division of Marine Fisheries shall study and recommend whether the establishment of a Shellfish Mariculture Commission to oversee shellfish bottom leasing and other aspects of shellfish aquaculture would substantially advance and promote the State's shellfish aquaculture industry. The recommendation shall include proposals for additional or reallocated funding as well as proposed legislation necessary to implement the recommendation.

SECTION 1.1.(c) As part of the Shellfish Mariculture Plan required by Section 13.13 of S.L. 2017-57, the North Carolina Policy Collaboratory shall establish a stakeholder process to study and recommend whether the shellfish leasing moratoria established by Section 2 of Chapter 876 of the 1967 Session Laws and Section 1(c) of S.L. 2003-64 should apply to Shellfish Aquaculture Enterprise Areas.

ADMINISTRATIVE REMEDY FOR SHELLFISH BOTTOM LEASING APPEALS

SECTION 1.2. G.S. 143B-289.57 is amended by adding a new subsection to read:

"(f) The Chair of the Commission shall appoint a three-member Shellfish Cultivation Lease Review Committee to hear appeals of decisions of the Secretary regarding shellfish cultivation leases issued under G.S. 113-202. The Committee shall include one Commission member, who shall serve as the hearing officer, and two public members. One public member shall have expertise or other relevant experience in shellfish aquaculture, and the other public member shall have expertise or other relevant experience with respect to coastal property or property assessment. The Commission shall adopt rules to establish procedures for the appeals and may adopt temporary rules."

EXPAND SHELLFISH NURSERY AREAS AND UNDER DOCK OYSTER CULTURE SITING

SECTION 1.3.(a) G.S. 113-203 reads as rewritten:

"§ 113-203. **Transplanting of oysters and clams.**

...

(a2) It is unlawful to do any of the following:

- (1) Transplant oysters or clams taken from public grounds to private beds except when lawfully taken during open season and transported directly to a private bed in accordance with rules of the Marine Fisheries Commission.
- (2) Transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.
- (3) Transplant oysters or clams from public grounds or permitted aquaculture operations utilizing waters in the prohibited, restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of this section and implementing rules.

(a3) ~~It~~Unless the Secretary determines that the nursery of shellfish in an area will present a risk to public health, it is lawful to transplant seed oysters or seed clams taken from permitted aquaculture operations that use waters in the prohibited, restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit issued by the Secretary that sets times during which transplant is permissible and other reasonable restrictions imposed by the Secretary under either of the following circumstances:

- (1) When transplanting seed clams less than 12 millimeters in their largest dimension.

1 (2) When transplanting seed oysters less than 25 millimeters in their largest
2 dimension.

3"

4 **SECTION 1.3.(b)** G.S. 113-210(c) reads as rewritten:

5 "(c) Issuance. – The Director of the Division of Marine Fisheries shall issue an Under
6 Dock Oyster Culture Permit only if the Director determines all of the following:

7 (1) ~~That~~ If the dock or pier is ~~not~~ located in an area that the State Health Director
8 has recommended be closed to shellfish harvest due to pollution or that has
9 been closed to harvest by statute, rule, or proclamation due to suspected
10 ~~pollution~~ pollution, the owner of the dock or pier has signed a written
11 acknowledgement that oysters produced under the permit are intended for
12 restoration purposes and not for consumption.

13"

14

15 SHELLFISH AQUACULTURE ENTERPRISE AREAS

16 **SECTION 1.4.** G.S. 113-201.1 is amended by adding a new subdivision to read:

17 "(3a) "Shellfish Aquaculture Enterprise Area" means an area designated and permitted by the
18 Department that is subdivided into parcels and made available for shellfish aquaculture leasing."

19

20 MORATORIUM ON SHELLFISH LEASING IN THE NEW HANOVER COUNTY 21 AREA

22 **SECTION 1.5.** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium on
23 new shellfish cultivation leases and new water column leases for aquaculture shall be imposed
24 for all those waters bordered in the north by a line beginning at a point 34° 13.10221' N - 77°
25 48.79544' W on the mainland near the Wrightsville Beach Bridge; running southeasterly to a
26 point 34° 12.51584' N - 77° 47.81847' W on Wrightsville Beach; and bordered in the south by
27 a line beginning at a point 34° 07.77029' N - 77° 52.08320' W on the mainland near Peden Point;
28 running easterly near IWW Marker #141 to a point 34° 07.60069' N - 77° 51.03281' on
29 Masonboro Island, to include the waters of Masonboro Sound and Greenville Sound. The
30 moratorium shall expire July 1, 2020.

31

32 MORATORIUM ON SHELLFISH LEASING IN BOGUE SOUND

33 **SECTION 1.6.(a)** Notwithstanding G.S. 113-202 and G.S. 113-202.1, a moratorium
34 on new shellfish cultivation leases and new water column leases for aquaculture shall be imposed
35 for all those waters bordered in the west by a line beginning at a point 34° 40.77658' N - 77°
36 04.02674' W on the mainland near the Emerald Isle High Rise Bridge; running southeasterly
37 following the bridge to a point 34° 40.05410' N - 77° 03.80531' W on Emerald Isle; bordered in
38 the north by a line beginning at a point 34° 43.24641' N - 76° 41.68436' W; running easterly
39 following the Highway 70 High Rise Bridge to a point 34° 43.27819' N - 76° 41.22259' W; and
40 bordered in the east by a line beginning at a point 34° 42.37275' N - 76° 40.80078' W on the
41 southern tip of Radio Island; running southerly to a point 34° 41.98273' N - 76° 40.81929' on
42 Bogue Banks near the U.S. Coast Guard Station. The moratorium shall expire July 1, 2020.

43 **SECTION 1.6.(b)** During the process for establishing Shellfish Aquaculture
44 Enterprise Areas, the Division of Marine Fisheries of the Department of Environmental Quality
45 shall identify areas in Bogue Sound where there are fewer anticipated user conflicts with shellfish
46 leases. The Division shall report its findings to the General Assembly no later than July 1, 2019.

47

48 PART II. REVISE OYSTER STUDIES REPORTING DATES

49 **SECTION 2.1.(a)** Section 14.11(f) of S.L. 2016-94 reads as rewritten:

1 **"SECTION 14.11.(f)** The University of North Carolina at Chapel Hill shall report the results
2 of its study, including any recommendations and suggested legislation needed to implement the
3 recommendations, to the Fiscal Research Division, the Environmental Review Commission, and
4 the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources
5 no later than ~~December 31, 2018.~~ December 31, 2018, which may be extended to June 30, 2019,
6 by written notice to the Fiscal Research Division if the University determines additional time is
7 needed to complete the study."

8 **SECTION 2.1.(b)** Section 13.13(b) of S.L. 2017-57 reads as rewritten:

9 **"SECTION 13.13.(b)** In addition to the study required by Section 14.11(d) of S.L. 2016-94,
10 as amended by subsection (a) of this section, the North Carolina Policy Collaboratory shall also
11 prepare and deliver a Shellfish Mariculture Plan by ~~December 31, 2018.~~ December 31, 2018,
12 which may be extended to June 30, 2019, by written notice to the Fiscal Research Division if the
13 Collaboratory determines additional time is needed to complete the study. Except as otherwise
14 prohibited by State or federal law, all State entities shall provide all information, resources, and
15 support deemed relevant by the Collaboratory for the creation of the Shellfish Mariculture Plan.
16 The plan shall be submitted to the Joint Legislative Oversight Committee on Agriculture and
17 Natural and Economic Resources, the chairs of the House of Representatives Appropriations
18 Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate
19 Appropriations Committee on Agriculture, Natural, and Economic Resources, and the Fiscal
20 Research Division and shall consider the following:

21 "

22 **SECTION 2.1.(c)** Section 13.13(d) of S.L. 2017-57, as amended by Section 4.1 of
23 S.L. 2017-197, reads as rewritten:

24 **"SECTION 13.13.(d)** The North Carolina Policy Collaboratory, in consultation with the
25 Economic Development Partnership of North Carolina, the Department of Commerce, and the
26 Department of Natural and Cultural Resources, and any other stakeholders the Partnership deems
27 relevant, including the North Carolina Tourism Advisory Board, the North Carolina Restaurant
28 and Lodging Association, the North Carolina Shellfish Growers Association, North Carolina Sea
29 Grant, and the North Carolina Fisheries Association, shall develop conceptual plans and
30 recommendations for economic development related to promotion of the State's shellfish
31 harvesting heritage. The plans and recommendations shall include the creation of a North
32 Carolina Oyster Trail and ~~a North Carolina Oyster Festival.~~ other public engagement events. Plan
33 development shall be congruent with the ongoing work of the North Carolina Policy
34 Collaboratory and its stakeholder group as described in this section and shall include
35 recommendations of locations, oversight, governmental support, cost, and timing of when such
36 initiatives should be launched in the future, including, but not limited to, achieving production
37 and acreage benchmarks, in addition to any other information deemed relevant for inclusion. The
38 Collaboratory's recommendations shall be provided no later than December 31, 2018, to the Joint
39 Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the
40 chairs of the House of Representatives Appropriations Committee on Agriculture and Natural
41 and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture,
42 Natural, and Economic Resources, and the Fiscal Research Division. The due date for the report
43 may be extended to June 30, 2019, by written notice to the Fiscal Research Division if the
44 Collaboratory and stakeholders determine that additional time is needed to complete the study.
45 This study, as it may be subsequently amended after submission, shall be included as an appendix
46 to the Shellfish Mariculture Plan required by subsection (b) of this section."
47

48 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

49 **SECTION 3.1.** If any section or provision of this act is declared unconstitutional or
50 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
51 the part declared to be unconstitutional or invalid.

1

SECTION 3.2. This act becomes effective July 1, 2018.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE 6-6-18

S. B. No. _____

Amendment No. _____

COMMITTEE SUBSTITUTE H361-CSSBF-361 [v.4]

(to be filled in by
Principal Clerk)

Rep.) McInnis

Sen.)

1 moves to amend the bill on page 1, line 15

2 () WHICH CHANGES THE TITLE

3 by removing strikethrough "in North Carolina"

4 _____

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

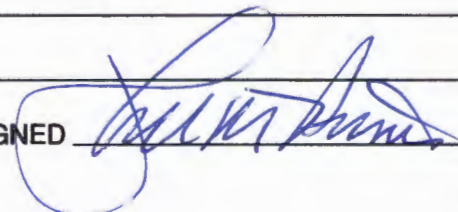
16 _____

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SIGNED



ADOPTED 

FAILED _____

TABLED _____

PRINCIPAL CLERK'S OFFICE (FOR ENGROSSMENT)



Senate Committee

On

Agriculture/Natural/Economic Resources

June 6, 2018 – 9:00 AM

Room 1027/1128

Senate Sergeant at Arms:

HAL ROACH

ARCHIE SMITH

LINDA MATTHEWS



Senate Pages Attending

COMMITTEE: Agriculture... ROOM: 1027
DATE: 8-6 TIME: 9 AM

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

Page Name	Hometown	Sponsoring Senator
1. Morgan Moore	Wallace	B. Jackson
2. Gray Perry	Washington	Cook
3. Beau Scate	Charlotte	J. Jackson
4. Bailey Parker	Raleigh	Alexander
5. Chase Gunter	Raleigh	Harrington
6.		
7.		
8.		

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





NAME OF MEETING: Agriculture/Natural/Economic Resources, Senate Committee

DATE: June 6, 2018 9:00 AM Room 1027/1128

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Laura Kilian	NDA
JAKE PARKER	NCFB
Paul Sherman	NCFB
J GOODMAN	CCC
PRESTON HOWARD	AICMA
Tommy Stevens	Stevens Hobby
Doug Laster	NCSA
92	MWL
John Skinner	NC Fisheries Assoc.
JERRY SCHUL	" " "
Amich Madril	NC GA
John Feldmann	NCCN
Chris Droughton	MWC
Jon Steeles	WFC
Mary Maclean Ashill	SELC
Ashlan Grou	WRC
John	Bone Asso.





NAME OF MEETING: Agriculture/Natural/Economic Resources, Senate Committee

DATE: June 6, 2018 9:00 AM Room 1027/1128

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Kelly King	USP
Doug Miskin	PSG
Davis Brinnell	DOJ
Kerry King	NCRMA
Hugh Johnson	NCAE
Amber Harris	NCAE
Robert Balresh	PPAB
Rob Hamm	PLA
Tom BEAN	NCWF
DAVID SNEED	CCANC
Isaac Nitchin	Governor's Office
Nancy Fish	NC DMF/DEQ
STEVE MURPHY	NC DMF/DEQ
Kara Weishaar	SA
Justin Clutter	Governor
Sarah Patterson	William's Muller
Sarah Collins	NCLM



Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 20, 2018, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 677	Protect Right to Hunt and Fish.	Senator Britt Senator Sanderson Senator McInnis

Presentations

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, June 20, 2018

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

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

SB 677

Protect Right to Hunt and Fish.

Draft Number:	S677-PCS35377-Rly-35
Sequential Referral:	None
Recommended Referral:	Rules and Operations of the Senate
Long Title Amended:	No

TOTAL REPORTED: 1

Committee Clerk Comments:

Senate Ag/Enviro/NER_Cultural Res. Committee

Report 1 of 1

Senator Norman W. Sanderson will handle SB 677



* C M R 8 2 3 - V - 1 *

Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 20, 2018 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:04 AM on June 20, 2018 in Room 1027/1128 of the Legislative Building. There were 13 members present.

Senator Norman W. Sanderson, Chair, presided.

The chair recognized Sergeant at Arms Jim Hamilton, Giles Jeffreys and Archie Smith. The chair also recognized pages Sonni Dudley from Greensboro, sponsored by Senator Lowe, Albani Hardy from Raleigh, sponsored by Senator Blue, Niya Bennett from Raleigh, sponsored by Senator Berger, Adison Tetreault from Rockingham, sponsored by Senator McInnis, Sarabeth Boyd from Pinetown, sponsored by Senator B. Jackson and Jud Reel from Iron Station, sponsored by Senator Ballard.

Senator Sanderson addressed any guests intending to speak and asked them to sign up with the Sergeant at Arms. Each speaker will be limited to 2 minutes.

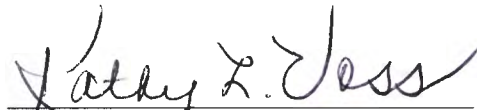
SB 677 – Protect Right to Hunt and Fish (Britt, Sanderson and McInnis)

Rep. Ted Davis presented the bill which will implement short term measures to respond to emerging contaminants in the environment. Senator Chaudhuri recused himself from discussion and voting. Senator Ron Rabin moved to consider a Senate PCS. Senator Mike Lee explained the PCS. The chair recognized Dr. Wanda Bodner, the Director of UNC's testing lab in Chapel Hill, NC. Senator Bill Cook moved to amend the bill to allow for conforming changes. Jeff Hudson answered a question from Sen. Bryant. Senator Woodard moved to accept the amendment. The motion passed.

There being no further business, the meeting adjourned at 10:26 am



Senator Norman W. Sanderson, Chair



Kathy L. Voss, Committee Clerk





SENATE BILL 677: Protect Right to Hunt and Fish.

2017-2018 General Assembly

Committee:	Senate Agriculture/Environment/Natural Resources	Date:	June 20, 2018
Introduced by:	Sens. Britt, Brock, Sanderson	Prepared by:	Jennifer McGinnis
Analysis of:	PCS to First Edition S677-CSRIy-35		Committee Counsel

OVERVIEW: *Senate Bill 677 would direct that a constitutional amendment be submitted to the qualified voters of the State at a statewide general election to be held in November of 2018 to include language in the State's Constitution to provide that the people of the State have a right to hunt, fish, and harvest wildlife, subject to certain limitations.*

BILL ANALYSIS and CURRENT LAW:

Section 1 of the bill would direct that a constitutional amendment be submitted to the qualified voters of the State at a statewide general election to be held in November of 2018 to include language in the State's Constitution to provide that the people of the State have a right, including the right to use traditional methods, to hunt, fish, and harvest wildlife, subject only to laws enacted by the General Assembly and rules adopted pursuant to authority granted by the General Assembly to (i) promote wildlife conservation and management and (ii) preserve the future of hunting and fishing. The amendment would explicitly provide, however, that the language "shall not be construed to modify any provision of law relating to public safety, trespass, property rights, eminent domain, or the regulation of commercial activities."

Current law provides that the marine and estuarine and wildlife resources of the State belong to the people of the State as a whole.ⁱ The Department of Environmental Quality (DEQ) and the Wildlife Resources Commission (WRC) are charged with stewardship of these resources.

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

ⁱ G.S. 113-131

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

This bill analysis was prepared by the nonpartisan legislative staff for the use of legislators in their deliberations and does not constitute an official statement of legislative intent.



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 677
PROPOSED COMMITTEE SUBSTITUTE S677-CSRIy-35 [v.2]
06/18/2018 04:04:26 PM

Short Title: Protect Right to Hunt and Fish.

(Public)

Sponsors:

Referred to:

June 7, 2017

A BILL TO BE ENTITLED
AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROTECT THE
RIGHT TO HUNT, FISH, AND HARVEST WILDLIFE.

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. 38. Right to hunt, fish, and harvest wildlife.

The right of the people to hunt, fish, and harvest wildlife is a valued part of the State's heritage and shall be forever preserved for the public good. The people have a right, including the right to use traditional methods, to hunt, fish, and harvest wildlife, subject only to laws enacted by the General Assembly and rules adopted pursuant to authority granted by the General Assembly to (i) promote wildlife conservation and management and (ii) preserve the future of hunting and fishing. This section shall not be construed to modify any provision of law relating to public safety, trespass, property rights, eminent domain, or the regulation of commercial activities."

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 general election to be held in November of 2018, 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 protecting the right of the people to hunt, fish, and harvest wildlife."

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 Bipartisan State Board of Elections and Ethics Enforcement 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.

SECTION 4. This act is effective when it becomes law.





GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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D

SENATE BILL 677
PROPOSED COMMITTEE SUBSTITUTE S677-CSRIy-35 [v.2]

06/18/2018 04:04:26 PM

Short Title: Protect Right to Hunt and Fish.

(Public)

Sponsors:

Referred to:

June 7, 2017

1 A BILL TO BE ENTITLED
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9 and shall be forever preserved for the public good. The people have a right, including the right
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11 General Assembly and rules adopted pursuant to authority granted by the General Assembly to
12 (i) promote wildlife conservation and management and (ii) preserve the future of hunting and
13 fishing. This section shall not be construed to modify any provision of law relating to public
14 safety, trespass, property rights, eminent domain, or the regulation of commercial activities."

15 **SECTION 2.** The amendment set out in Section 1 of this act shall be submitted to
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19 question to be used in the voting systems and ballots shall be:

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21 Constitutional amendment protecting the right of the people to hunt, fish, and harvest
22 wildlife."

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26 amendment so certified among the permanent records of that office.

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Senate Committee

On

**Agriculture, Environmental, and Natural
Resources**

June 20, 2018

Room 1027 / 1128 LB – 9:00 AM

Senate Sergeant at Arms:

JIM HAMILTON

GILES JEFFREYS

ARCHIE SMITH



Senate Pages Attending

COMMITTEE: Agriculture ROOM: 1027
 DATE: 6-20 TIME: 9 AM

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

	Page Name	Hometown	Sponsoring Senator
1.	^{Sonni} Sonni Dudley	Greensboro	Lowe
2.	^{Albany} Albany ^{Hardy} Hardy	Raleigh	Blue
3.	Niya Bennett	Raleigh	Berger
4.	^{Tay-trow} Adison Tetreault	Rockingham	Mcinnis
5.	Sarah Beth Boyd	Pine town	B Jackson
6.	Jud Reel	Iron Station	Bullard
7.			
8.			

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



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SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

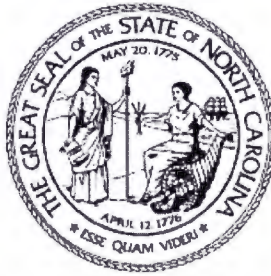
June 20, 2018

Room 1027 / 1128 LB – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Chris Kerpok	NRRI
John Culclasure	Congressional Sportsmen's Foundation
Ashton Gudwin	WRCC
Tim M. Wier	NCHBA
Steven Webb	NCHBA
Sarah McQuillan	Kalros Gov Affairs
Carl Gilmore	Tim Hargill
Sue Ann Forest	NMS
Amber Harris	NCAAC
ROBERT C FREDE, MD	ECU NEUROLOGY





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

June 20, 2018

Room 1027 / 1128 LB – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Emily DeP	Anson high school
William Junderdick	Anson high school
LeAnna Davis	Anson high school
Samantha Walters	Anson High school
Nicholas Mejia	Anson High School
Karl Hildreth	Anson High School
Dana B. Wood	Anson High School
Michaela Cash	Anson High School
Devin Eason	Senate Intern
Pick Hamilton	NC Med. Fed.
Joe McClers	McClers Consultin
Adam Proctor	NCMEC
Donald Bryson	Civitas
Chris Williams	DWF





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

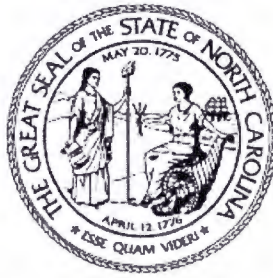
June 20, 2018

Room 1027 / 1128 LB – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
Laurakilian	NW
Jon Lanier	NCDA
Doug Lassiter	NCSTA
Lake Parker	NCFB
Paul Sherman	NCFB
Tom Nix	NCICU
Chris White	DEQ
William E. Lee	NCAN
Ben White	NCDAES
Sam Post	YM
Mike Gargenta	NCIBQ
Cassie Gann	Stema Club
Joe Byall	NCFPL
	NCDOZ





SIGN-UP SHEETS

Senate Committee On

Agriculture, Environmental, and Natural Resources

June 20, 2018

Room 1027 / 1128 LB – 9:00 AM

PLEASE SIGN IN BELOW

NAME	FIRM OR AGENCY
<i>Lutz Hain</i>	<i>CONECT</i>
<i>John Cooper</i>	<i>NCWF</i>
<i>Tom Brennan</i>	<i>DNCR</i>
<i>Lex Jones</i>	<i>NCR</i>
<i>Seal Palmer</i>	<i>BP</i>
<i>Elizabeth Biser</i>	<i>SEANC</i>
<i>Resha Fortson</i>	<i>SEANC</i>
<i>Flint Benson</i>	<i>secy of state</i>
<i>Leo John</i>	<i>MWC</i>
<i>Chris Middleton</i>	<i>CCA NC</i>
<i>DAVID SNEED</i>	<i>DOJ</i>
<i>David Brunell</i>	<i>NCMS</i>
<i>Gelli Mattson</i>	<i>Gouverneur</i>
<i>Justin Clayton</i>	<i>KTS</i>
<i>Amanda Donovan</i>	



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Senate Committee on Agriculture/Environment/Natural Resources
Wednesday, June 27, 2018, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

Consideration of Governor's Oil & Gas Commission Nominees

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Wednesday, June 27, 2018

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

FAVORABLE

SR 816	Confirm Jim Zhang/Oil and Gas Commission.
	Draft Number: None
	Sequential Referral: Select Committee on Nominations
	Recommended Referral: Select Committee on Nominations
	Long Title Amended: No
SR 817	Confirm Rebecca Wyhof/Oil & Gas Commission.
	Draft Number: None
	Sequential Referral: Select Committee on Nominations
	Recommended Referral: Select Committee on Nominations
	Long Title Amended: No

TOTAL REPORTED: 2

Senator Andy Wells will handle SR 816
Senator Andy Wells will handle SR 817



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

Senate Committee on Agriculture/Environment/Natural Resources
Thursday, June 27, 2018 at 9:00 AM
Room 1027/1128 of the Legislative Building

Minutes

The Senate Committee on Agriculture/Environment/Natural Resources met at 9:05AM on June 27, 2018, in Room 1027/1128 of the Legislative Building. 14 members were present.

Senator Andy Wells, Chair, presided.

Senator Wells welcomed Committee members and guests and thanked Sergeants-at-Arms Billy Fritscher, Jim Hamilton and Linda Matthews and Pages Kira Taylor, Chapel Hill, sponsored by Senator Foushee; Sophie Pinkston, Laurinburg, sponsored by Senator McInnis; Joey Marmawd, Cary, sponsored by Senator Chaudhuri, Philip Berger, Hillsborough, sponsored by Senator Berger, Charlie Loyack, Cary, sponsored by Senator Barringer and Alex Maddox, Asheville, sponsored by Senator Edwards.

SR 816 – Confirm Jim Zhang/Oil and Gas Commission

Senator Wells explained the Resolution which confirms the appointment of Dr. Junfeng “Jim” Zhang of Orange County to serve on the North Carolina Oil and Gas Commission for a term expiring on December 31, 2019 and is effective upon adoption. Since Dr. Zhang was unable to attend the meeting, Senator Woodard made a motion for a favorable report on the resolution to confirm Dr. Zhang. Motion carried with a serial referral to Nominations.

SR 817 – Confirm Rebecca Wyhof Salmon/Oil and Gas Commission

Senator Wells explained the Resolution which confirms the appointment of Rebecca Wyhof Salmon of Lee County to serve on the North Carolina Oil and Gas Commission for a term expiring on December 31, 2020 and is effective upon adoption. Ms. Salmon fielded questions from Senator Newton, Senator Woodard, Senator Rabin, Senator Waddell, Senator Cook, Senator Barrett and Senator Wade. Senator Cook made a motion for a favorable report on the resolution to confirm Rebecca Wyhof Salmon. Motion carried with a serial referral to Nominations.

There being no further business, the meeting adjourned at 9:55 AM.



Senator Andy Wells, Chair Presiding



Linda Wentz, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE RESOLUTION 816

Sponsors: Senator Rabon (Primary Sponsor).

Referred to: Agriculture/Environment/Natural Resources

June 26, 2018

1 A SENATE RESOLUTION RELATING TO THE APPOINTMENT, NOMINATION, AND
2 CONFIRMATION OF DR. JUNFENG "JIM" ZHANG TO THE NORTH CAROLINA OIL
3 AND GAS COMMISSION.

4 Whereas, pursuant to G.S. 143B-293.2, appointments by the Governor to the North
5 Carolina Oil and Gas Commission are subject to senatorial advice and consent in conformance
6 with Section 5(8) of Article III of the North Carolina Constitution; and

7 Whereas, the Governor has nominated Dr. Junfeng "Jim" Zhang of Orange County to
8 serve on the North Carolina Oil and Gas Commission as a commissioner with experience in
9 matters related to public health, pending further action by the Senate; Now, therefore,

10 Be it resolved by the Senate:

11 **SECTION 1.** The appointment of Dr. Junfeng "Jim" Zhang of Orange County to
12 serve on the North Carolina Oil and Gas Commission for a term expiring on December 31, 2019,
13 is confirmed.

14 **SECTION 2.** This resolution is effective upon adoption.







ROY COOPER
GOVERNOR

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

October 5, 2017

The Honorable Tim Moore
Speaker of the House
Legislative Office Building, Room 2304
Raleigh, NC 27601-1096

Dear Speaker Moore:

Pursuant to N.C. Gen. Stat. §143B-293.2, I am pleased to nominate the following individual to serve on the North Carolina Oil and Gas Commission and hereby submit his name for confirmation by the General Assembly:

- Dr. Junfeng Zhang of Orange County, experience in matters related to public health

I am grateful for Dr. Zhang's willingness to assume this important responsibility for the State of North Carolina. Attached is his biographical information for your review. Please feel free to call my staff for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Roy Cooper".
Roy Cooper

cc:

The Honorable Phil Berger
The Honorable Dan Forest
The Honorable Dan Blue

The Honorable Darren G. Jackson
Ms. Sarah Lang
Mr. James White



December 26, 2016



JUNFENG (JIM) ZHANG

CURRICULUM VITAE

DUKE UNIVERSITY
NSOE LSRC Rm. A309

308 Research Dr.
Durham, NC 27708
Office: 919-681-7782
Cell: 323-388-6366
Fax: 919-613-8061
Email: junfeng.zhang@duke.edu
Websites: <http://globalhealth.duke.edu/people/faculty/zhang-jim>
<http://sites.globalhealth.duke.edu/ebclab/>

DUKE KUNSHAN UNIVERSITY
No. 8 Duke Avenue
Kunshan, Jiangsu, China 215316
Office: +86-512 5777 9988
Cell: +189-1323-3695
Fax: +86-512 5772 8899
Email: junfeng.zhang@duke.edu
Website: www.dukekunshan.edu.cn
<http://sites.globalhealth.duke.edu/ebclab/>

I. EDUCATION

Degree	School	Date	Concentration
B.S.	Peking University, Beijing, China	1985	Applied Chemistry
M.S.	Peking University, Beijing, China	1988	Atmospheric Chemistry
M.S.	Rutgers University, New Brunswick, NJ	1991	Environmental Sciences
Ph.D.	Rutgers University and the University of Medicine and Dentistry of New Jersey, Piscataway, NJ	1994	Environmental Sciences and Public Health
Postdoctoral	East-West Center and UC-Berkeley Mentored by Kirk R. Smith, PhD	1994-1995	

Special Training

Attended "Stand and Deliver" Workshop by Steve Adubato, PhD, consisting of six two-hour sessions on "Speak from the Heart", a UMDNJ effort of leadership development, 2005.

Attached one-day "Ready for Media" training at University of Southern California, with hand-on training on how to effectively communicate with the media and the public about scientific discoveries, 2012.

Honors and Awards

Outstanding Graduate 1985 (Highest Honors), by Peking University and numerous awards during undergraduate and graduate study at Peking University (1981-1988).

Second place of the National Best Books on Environmental Knowledge, Beijing, China. Book title: "A Treasure Box of Environmental Knowledge," 1990.

First place of the National Hongyu (Rainbow and Rain) Cup Contest of Poetry and Words in Beijing, China.
Winning poem title: "Memory: A Serenade" 1992.

Second place, Contest of Student Paper Session, 39th Anniversary Conference of Air & Waste Management Association, Mid-Atlantic States Section, Atlantic City, NJ. Paper title: "Indoor AIR chemistry: ozone, aldehydes, and organic acids in residential air," 1993.

Distinguished Lectureship Award (for presenting a short course on Indoor Air Pollution and Exposure Assessment), presented by College of Environmental Sciences and Engineering, Nan Kai University, Tianjin, China, 2002.

For contributing to the award of the Nobel Peace Prize for 2007 to IPCC, presented by the Intergovernmental Panel on Climate Change (IPCC), 2007.

Honorary Member of Delta Omega, the honorary society for graduate studies in public health, 2008.

Excellence in Research Award for 2007-2008 by the Foundation of University of Medicine and Dentistry of New Jersey, 2008.

Excellence in Teaching Award for 2008-2009 by the Foundation of University of Medicine and Dentistry of New Jersey, 2009.

Inducted to the Stuart D. Cook Master Educators' Guild, University of Medicine and Dentistry of New Jersey, 2009.

Jerome J. Wesolowski Award, by International Society of Exposure Science, to recognize sustained and outstanding contributions to the knowledge and practice of human exposure assessment, 2012.

Distinguished Alumni Award, by the Graduate School-New Brunswick, Rutgers University, for outstanding achievement in the Physical and Mathematical Sciences, 2013.

Dennis M. Fenton Graduate Student Alumni Award, presented by the Cook Community Alumni Association, Rutgers University, 2013.

Fellow of American Association for the Advancement of Science (AAAS), 2013.

II. PROFESSIONAL BACKGROUND

Academic Appointments

Research and Teaching Assistant, Department of Technical Physics, Peking University, Beijing, China, 1985-1988.

Consultant, Environmental Protection Office of Peking University, Beijing, China, 1987-1989.

Executive Director of Management Training Program, Stone Company, Beijing, China, 1988-1989.

Air Pollution Analyst, Gibbs & Hill, Inc., NY 1990-1990

Research Assistant, Environmental and Occupational Health Sciences Institute 1989-1994.

Fellow (Research Associate), Program on Environment, the East-West Center, Honolulu, Hawaii, 1994-1995.

Lecturer, TH Huxley School of Environment, Earth Science and Engineering, Imperial College of Science, Technology and Medicine, London, UK, 2000-2001.

Assistant Professor, Department of Environmental and Community Medicine, University of Medicine and Dentistry of New Jersey - Robert Wood Johnson Medical School, 1995-2001.

Director, EOHSI International Environmental Health Center, Piscataway, New Jersey, USA, 2001- 2004.

Adjunct Research Professor, China National Environmental Monitoring Center, Beijing, China, 2000-2004.

(Secondary Appointment) Associate Professor, Department of Environmental and Occupational Medicine, Robert Wood Johnson Medical School – University of Medicine and Dentistry of New Jersey, 2001-2006.

Associate Professor of Department of Environmental and Occupational Health, School of Public Health – University of Medicine and Dentistry of New Jersey, 2001-2006.

Faculty member, Joint Graduate Program in Toxicology of UMDNJ and Rutgers University 2005-2010.

Member, Exposure Measurement and Assessment Division, Environmental and Occupational Health Sciences Institute jointly sponsored by University of Medicine and Dentistry of New Jersey and Rutgers- the State University of New Jersey, 2005-2010.

Graduate Faculty, Department of Environmental Sciences, Rutgers University, 1996-2010.
Member, the Cancer Institute of New Jersey, Piscataway, New Jersey, 2002- 2010.

Visiting/Guest Professor, College of Environmental Sciences and Engineering, Peking University, Beijing, China, 2004-present.

Faculty member, the Graduate School of Biomedical Sciences at University of Medicine and Dentistry of New Jersey, 1996-2010.

Professor of Environmental and Occupational Health, School of Public Health – University of Medicine and Dentistry of New Jersey, 2006-2010.

Chair and Acting Chair, Department of Environmental and Occupational Health, University of Medicine and Dentistry of New Jersey – School of Public Health 2006-2010.

Associate Dean for the Piscataway/New Brunswick Campus, Associate Dean for Global Public Health, University of Medicine and Dentistry of New Jersey – School of Public Health, 2008-2010.

Adjunct Professor, Department Environmental and Occupational Health, School of Public Health – University of Medicine and Dentistry of New Jersey, 2010-present.

Professor, Department of Preventive Medicine, University of Southern California, Los Angeles, CA, 2010-2013.

Professor, Nicholas School of the Environment and Duke Global Health Institute, Duke University, Durham, North Carolina, 2013-present.

Administrative Appointments

Chair and Acting Chair, Department of Environmental and Occupational Health, University of Medicine and Dentistry of New Jersey – School of Public Health 2006-2010.

Associate Dean for the Piscataway/New Brunswick Campus, Associate Dean for Global Public Health, University of Medicine and Dentistry of New Jersey – School of Public Health, 2008-2010.

Chair, the Piscataway/New Brunswick Campus Executive Committee, UMDNJ-School of Public Health, 2008-2010.

Chair, Executive Committee for the Piscataway/New Brunswick Campus, UMDNJ-School of Public Health, 2008 – 2010.

Professional Appointments

Member of Planning Committee and Workshop Coordinator for the Southeast Asian Environmental Health Research Workshop, sponsored by US National Institute of Environmental Health Sciences (NIEHS), University of Kebangsaan Malaysia, University of Putra Malaysia, Environmental & Occupational Health Science Institute, NJ, and University of Pittsburgh, PA, 01/01–05/01.

Conference Chair, of the Annual Conference of International Society of Exposure Analysis (ISEA) held in October 17-21, 2004 in Philadelphia, USA. 2002-2004.

Program Co-Chair, International Topical Meeting on Environmental Reliability and Risk Studies, Seoul National University, Seoul, South Korea, Sponsored by US National Science Foundation and co-sponsored by Rutgers University, Seoul National University, and UMDNJ, 02/05.

Member, Environmental and Occupational Health Sciences Institute (EOHSI), jointly sponsored by UMDNJ-Robert Wood Johnson Medical School and Rutgers University, 1995 - 2010.

Member of New Jersey Clean Air Council, advisory body for the State of New Jersey, 2005-2010.

Member of the International Advisory Committee (IAC) for the 10th International Healthy Building Conference in 2012 (HB2012), which is the official conference of the International Society of Indoor Air Quality and Climate (ISIAQ) and will take place in Brisbane, Australia, from 8-12 July 2012. 03/11-07/12.

Member of the Environmental Health Sciences Review Committee of the National Institute of Environmental Health Sciences (NIEHS), which has primary responsibility for reviewing applications for P30 Centers, institutional training grants, career awards, and other specialized program applications, June 2011 – August 2015.

Member of the Environmental Protection Agency (EPA) Clean Air Scientific Advisory Committee (CASAC) Oxides of Nitrogen (NOx) Primary National Ambient Air Quality Standards (NAAQS) Panel, which will review and provide technical advice and policy assessments for NOx. March 2013 – Present.

Member of the Special Scientific Committee on Unconventional Oil and Gas Development, Health Effects Institute. May 2014 – May 2015.



NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 814-0700
Fax: (919) 715-0135

October 5, 2017

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

Re: Evaluation of Statement of Economic Interest Filed By Dr. Jim Zhang
Prospective Appointee - NC Oil and Gas Commission

Dear Governor Cooper:

Our office is in receipt of **Dr. Jim Zhang's** 2017 Statement of Economic Interest as a prospective appointee to the **North Carolina Oil and Gas Commission (Commission)**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest or the potential for a conflict of interest.

The North Carolina Oil and Gas Commission was created to administer the Oil and Gas Conservation Act and to establish a program for the management of oil and gas exploration and development in the State, including the use of horizontal drilling and hydraulic fracturing treatments for that purpose. The Commission will regulate the spacing of wells, establish drilling units, limit and prorate the production of oil and gas, or both, from any pool or field for the prevention of waste, classify wells for taxing purposes and provide for the productive and efficient development of the State's oil and gas resources.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Dr. Zhang will fill the role of person with experience in matters related to public health on the Commission. Dr. Zhang is a Professor at Duke University.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

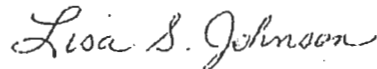
The Honorable Roy A. Cooper, III
October 5, 2017
Page 2 of 2

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,



Lisa Johnson, Paralegal
NC Board of Elections & Ethics Enforcement

cc: Dr. Jim Zhang

Attachment: Ethics Education Flyer



NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST
CONTACT INFORMATION

This contact information page will not be available on the
Commission's website, but it is a public document.

919-814-3600

www.ncsbe.gov/Ethics/SEI

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Dr.	Jim		Zhang	
MAILING ADDRESS				
Address		City	State	ZIP
3821 Sweeten Creek Rd		Chapel Hill	NC	27-5140
DAYTIME PHONE NUMBER		ALTERNATE PHONE NUMBER		
919-681-7782		323-388-6366		
E-MAIL ADDRESS				
jz121@duke.edu				
HOME ADDRESS: PROVIDE YOUR HOME ADDRESS ONLY IF YOU ARE HOLDING OR SEEKING AN ELECTED OFFICE WITH A RESIDENCY REQUIREMENT. This requirement does not apply to Judicial Officers. Judicial officer means Justice or Judge of the General Court of Justice, District Attorney, or Clerk of Court, or any individual elected or appointed to any of these positions prior to taking office. <input type="checkbox"/> Same As Mailing Address				
Address		City	State	ZIP



NORTH CAROLINA STATE ETHICS COMMISSION
2017 STATEMENT OF ECONOMIC INTEREST

919-814-3600

www.ncsbe.gov/Ethics/SEI

COMPLETE THIS FORM AND MAIL SIGNED, ORIGINAL TO
STATE ETHICS COMMISSION, 1324 MAIL SERVICE CENTER, RALEIGH, NC 27699-1324

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Dr.	Jim		Zhang	
CURRENT EMPLOYER			JOB TITLE	
Duke University			Professor	
NATURE OR TYPE OF BUSINESS				
Higher Education				
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify Agency)			BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)	
			Oil and Gas Commission;	
JUDICIAL OFFICER (Specify Office)			LEGISLATOR (Specify House or Senate)	

A. Do other immediate family members reside in your household?

Yes ☐ No

When used throughout this form, the term **Immediate family** includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) who reside in your household.

List the full name of all adults and emancipated minors in your household. A minor is a child under 18 years old. Minors are emancipated by marriage, enlistment in the US military, or court order for emancipation.

FULL NAME OF ADULTS & EMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
Jing Zhang	wife	None	none	n/a
Charles Zhang	son	none	college student	n/a
Barry Zhang	Son	none	high school student	n/a

B. List **ONLY** the initials of all unemancipated minors in your household below. A minor is a child under 18 years old.

Note: You must list the full name of each minor child on the Confidential Form available at the end of this document.

INITIALS FOR UNEMANCIPATED CHILDREN	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
BZ	Son	none	none	n/A

PROPERTY INTERESTS

1. As of December 31, 2016, did you, your spouse, or members of your immediate family:

A. Have an ownership interest in North Carolina real estate (including your residence) with a market value of \$10,000 or more?

Yes ☐ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County
Junfeng (Jim) Zhang and Jing Zhang	50	Chapel Hill	Orange

B. Lease or rent real estate or personal property to or from the State of North Carolina with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2015 or 2016, did you, your spouse, or members of your immediate family sell to or buy from the State of North Carolina personal property with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Purchaser	Name of Seller	Type of Property

FINANCIAL INTERESTS

3. As of December 31, 2016, did you, your spouse, or members of your immediate family own any of the following financial interests valued at \$10,000 or more? LIST EACH COMPANY INDIVIDUALLY

A. Stock in a publicly owned company?

☐ Yes ☒ No

- Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if: (i) the fund is publicly traded or its assets are widely diversified; and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)

B. Stock Options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations)?

☐ Yes ☒ No If "No", proceed to question 4.

Owner of Interest	Name of Company or Business Entity

C (1). For each non-publicly owned company or business entity (the "primary company") identified in question 3.C above, please list the names of *any other companies or business entities* in which the primary company owns securities or equity interests valued at over \$10,000, *if known*.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
<input type="checkbox"/> None or Not Known	

C (2). If you know that any company or business entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts *with the State of North Carolina*, or is *regulated by the State*, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> None or Not Known	

4. As of December 31, 2016, were you, your spouse, or members of your immediate family the beneficiaries of a vested trust with a value of \$10,000 or more that was created, established, or controlled by you?

Do not list assets held in blind trusts. See 2017 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2016, did you, your spouse, or members of your immediate family have liabilities of \$10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☐ Yes ☒ No

Name of Debtor (You, Spouse, Immediate Family Member)	Type of Creditor (Commercial Bank, Credit Union, Individual, etc.)

6. List each source of income (not specific amounts) of more than \$5,000 received by you, your spouse, or members of your immediate family during 2016. Include salary, wages, state/local government retirement, professional fees, honoraria, interest, dividends, rental income, business income, and other types of income required to be reported on your State and federal tax returns.

Do not include income received from the following sources:

- ▶ Capital gains
- ▶ Federal government retirement
- ▶ Military retirement
- ▶ Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
---------------------	----------------	---------------------------	----------------

☐ I had no reportable income over \$5,000 in 2016.

Junfeng Zhang	Duke University	Professor	Salary
---------------	-----------------	-----------	--------

PROFESSIONAL AND CIVIC RELATIONSHIPS

7(a). During 2016, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

☐ Yes ☐ No If "No", proceed to question 8.

- ▶ Do not list State boards or entities, or entities created by a political subdivision of the State.
- ▶ Do not list organizations of which you are a mere member.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, please provide a brief description of the nature of that business, if known or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business or State Funding
---	--

☐ None or Not Known

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

8. During 2016, were you, your spouse, or members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to those offices.

▶ Do not list organizations of which you are only a member (not serving in a leadership role).

Name of Person	Name of Society, Organization or Advocacy Group	Leadership Position (Director, Officer, Board Member)

9(a). List the name of each company or business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2016.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input checked="" type="checkbox"/> No Business Associations			

9(b). If you know that any company or business entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2016, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input checked="" type="checkbox"/> Not applicable (No entities listed on #9a) <input type="checkbox"/> No relationship / Not known	

10. Are you a practicing attorney?

☐ Yes ☒ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than \$10,000 during 2016.

☐ Administrative ☐ Admiralty ☐ Corporate ☐ Criminal
☐ Decedent's Estates ☐ Environmental ☐ Insurance ☐ Labor
☐ Local Government ☐ Real Property ☐ Securities ☐ Tax
☐ Tort litigation (including negligence) ☐ Utilities Regulation ☐ Other category not listed.

11. During 2016, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over \$10,000?

☐ Yes ☒ No

Type of Business	Nature of Services Rendered

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

12. Are you or your employer, your spouse or members of your immediate family, or their employer currently:

- Licensed by the State board or employing entity with which you are or will be associated or
- Regulated by the State board or employing entity with which you are or will be associated or
- Have a business relationship with the State board or employing entity with which you are or will be associated?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer ("judicial officer" is defined in the SEI Helpful Tips) or you are filing as an appointee to those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)

13. Are you, your spouse, or a member of your immediate family currently registered as a lobbyist or lobbyist principal or were you registered as such within the 12 months preceding your filing of this form?

☐ Yes ☒ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration

OTHER DISCLOSURES

14. During any calendar quarter in 2016 (but only the time period after you were appointed, employed or filed or were nominated as a candidate), did you

- receive any gift(s) exceeding \$200 per quarter from a person or group of persons acting together, and
- when both you and those person(s) were outside North Carolina at the time you accepted the gift(s), and
- the gift(s) were given under circumstances that would lead a reasonable person to conclude that they were given for lobbying?

☐ Yes ☒ No

- ▶ Do not report gifts given by members of your extended family.
- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

15. During 2016 (but only the time period after you were appointed, employed, or filed or were nominated as a candidate) did you

- accepted a "scholarship" exceeding \$200 from a person or group of persons acting together and
- those person(s) were outside North Carolina and
- the scholarship was related to your public position? A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☐ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."
- ▶ Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member or participant or an affiliate of that organization.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

16. Were you appointed or are you being considered for an appointment to a covered board by the Governor or another Council of State member?

Council of State members are:

- Governor
- Lt. Governor
- Secretary of State
- State Auditor
- State Treasurer
- Superintendent of Public Instruction
- Attorney General
- Commissioner of Agriculture
- Commissioner of Labor
- Commissioner of Insurance

☐ Yes ☐ No

If "Yes", list all contributions you (NOT immediate family members) made during 2016 with a cumulative total of more than \$1,000 to the Governor or other Council of State member who appointed you.

- ▶ Contributions are defined in N.C.G.S. 163-278.6(6) and include, but are not limited to, "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
<input checked="" type="checkbox"/> No contribution(s) with a cumulative total of more than \$1,000		

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

17. Are you an appointee or prospective appointee to:

- a. the head of a principal state department (e.g. cabinet secretary) appointed by the Governor;
or
b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge;
or
c. a member of any of the following boards:

- ABC Commission
- Coastal Resources Commission
- State Board of Education
- State Board of Elections
- Division of Employment Security
- Environmental Management Commission
- Industrial Commission
- Human Resources Commission
- Rules Review Commission
- Board of Transportation
- UNC Board of Governors
- Utilities Commission
- Wildlife Resources Commission

☐ Yes ☒ No

If "No", proceed to question 18.

d. If so, were you appointed or are you being considered for appointment to that public position by a Council of State member? Council of State members are listed in question 16.

☐ Yes ☐ No

If "No", proceed to question 18.

e. If so, you must indicate whether during 2016 you (not immediate family members) engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you to your public position:

☐ Yes ☐ No

i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee? Contributions are defined in question 16.

ii. Hosted a fundraiser at your residence or place of business?

☐ Yes ☐ No

iii. Volunteered for campaign-related activities, which include, but are not limited to, phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?

☐ Yes ☐ No

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon of innocence; or (ii) an order of expungement regarding that conviction?

☐ Yes ☒ No

Offense	Date of Conviction	County of Conviction	State of Conviction

19. Are you aware of any other information that *you believe* may assist the State Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide such information below.

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

☐ I Agree

Signature

Date

Jim Zhang

Printed Name



NORTH CAROLINA STATE BOARD OF ELECTIONS AND
ETHICS ENFORCEMENT

2018 STATEMENT OF ECONOMIC INTEREST
NO CHANGE FORM

Review your LAST SEI LONG Form

CONTACT INFORMATION

This contact information page will not be available on the
Commission's website, but it is a public document.

919-814-3600

www.ncsbe.gov/Ethics/SEI

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Junfeng		Zhang	
MAILING ADDRESS				
Address		City	State	ZIP
3821 Sweeten Creek Road		Chapel Hill	NC	27514-0000
DAYTIME PHONE NUMBER		ALTERNATE PHONE NUMBER		
919-681-7782		323-388-6366		
E-MAIL ADDRESS				
junfeng.zhang@duke.edu				
HOME ADDRESS: PROVIDE YOUR HOME ADDRESS ONLY IF YOU ARE HOLDING OR SEEKING AN ELECTED OFFICE WITH A RESIDENCY REQUIREMENT. This requirement does not apply to Judicial Officers. Judicial officer means Justice or Judge of the General Court of Justice, District Attorney, or Clerk of Court, or any individual elected or appointed to any of these positions prior to taking office. <input type="checkbox"/> Same As Mailing Address				
Address		City	State	ZIP



NORTH CAROLINA STATE ETHICS COMMISSION
2018 STATEMENT OF ECONOMIC INTEREST
NO CHANGE FORM

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
	Junfeng		Zhang	
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify the agency for which you work or are being considered)		BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)		
		Oil and Gas Commission;		
JUDICIAL OFFICER (Specify the office you hold)		LEGISLATOR (Specify House or Senate)		

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

I hereby affirm that I have reviewed my most recently filed 2017 Statement of Economic Interest and that as of December 31, 2017, my responses continue to be true, correct, and complete to the best of my knowledge and belief.

I Agree. It is my intention that this check box constitutes my electronic signature. By checking this box I certify that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

Filed Electronically

2/21/2018

Signature

Date

Junfeng Zhang

Printed Name



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE RESOLUTION 817

Sponsors: Senator Rabon (Primary Sponsor).

Referred to: Agriculture/Environment/Natural Resources

June 26, 2018

1 A SENATE RESOLUTION RELATING TO THE APPOINTMENT, NOMINATION, AND
2 CONFIRMATION OF REBECCA WYHOF SALMON TO THE NORTH CAROLINA OIL
3 AND GAS COMMISSION.

4 Whereas, pursuant to G.S. 143B-293.2, appointments by the Governor to the North
5 Carolina Oil and Gas Commission are subject to senatorial advice and consent in conformance
6 with Section 5(8) of Article III of the North Carolina Constitution; and

7 Whereas, the Governor has nominated Rebecca Wyhof Salmon to serve on the North
8 Carolina Oil and Gas Commission, as a commissioner who is an elected official of a municipal
9 government located in a region of North Carolina that has oil and gas potential, pending further
10 action by the Senate; Now, therefore,

11 Be it resolved by the Senate:

12 **SECTION 1.** The appointment of Rebecca Wyhof Salmon of Lee County to the
13 North Carolina Oil and Gas Commission for a term expiring on December 31, 2020, is confirmed.

14 **SECTION 2.** This resolution is effective upon adoption.



* S 8 1 7 - V - 1 *





ROY COOPER
GOVERNOR

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR

December 7, 2017

The Honorable Tim Moore
Speaker of the House
Legislative Office Building, Room 2304
Raleigh, NC 27601-1096

Dear Speaker Moore:

Pursuant to N.C. Gen. Stat. §143B-293.2, I am pleased to nominate the following individual to serve on the North Carolina Oil and Gas Commission and hereby submit her name for confirmation by the General Assembly:

- The Honorable Rebecca R. Wyhof of Lee County, elected official of a municipal government located in a region of NC that has oil and gas potential

I am grateful for Council Member Wyhof's willingness to assume this important responsibility for the State of North Carolina. Attached is her biographical information for your review. Please feel free to call my staff for any additional information.

Sincerely,

A handwritten signature in black ink that reads "Roy Cooper".

Roy Cooper

cc: The Honorable Phil Berger
The Honorable Dan Forest
The Honorable Dan Blue

The Honorable Darren G. Jackson
Ms. Sarah Lang
Mr. James White



Rebecca Wyhof

Rebecca Wyhof is the President of Blue Roof Strategies, LLC. She brings 20 years of diverse public and private sector experience to the company. Prior to her position at Blue Roof, she served as the Vice President of the North Carolina Telecommunications Industry Association (NCTIA) as well as the Eastern Rural Telecom Association and the Carolina-Virginias Telephone Membership Association.



Prior to her work at NCTIA, Rebecca served four years as the Communications Director for the Pew Center for Civic Journalism, a national nonprofit based in Washington, DC. Rebecca has also worked for the North Carolina Civic Education Consortium, The City of Fayetteville, NC and the Office of Environmental Security at the Pentagon (DOD).

Rebecca graduated from American University with a B.A. in Political Science and Public Communication. She received her Master of Public Administration from the University of North Carolina at Chapel Hill with a Certificate of Nonprofit Leadership. She is an alumnus of Leadership North Carolina - Class XX.

Rebecca was elected to the Sanford City Council in 2011. She represents Ward 5 is the current Mayor Pro Tem. She serves as 1st Vice-Chairperson of the Triangle J Council of Governments and on the Board of Directors of Foreign Trade Zone #93 and the United Way of Lee County.





NORTH CAROLINA

State Board of Elections & Ethics Enforcement

Mailing Address:
P.O. Box 27255
Raleigh, NC 27611-7255

Phone: (919) 814-0700
Fax: (919) 715-0135

February 15, 2018

The Honorable Roy A. Cooper, III
Governor of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Via Email

**Re: Evaluation of Statement of Economic Interest Filed by Rebecca Wyhof Salmon
Prospective Appointee - NC Oil and Gas Commission**

Dear Governor Cooper:

Our office is in receipt of **Mrs. Rebecca W. Salmon's** 2018 Statement of Economic Interest as a prospective appointee to the **North Carolina Oil and Gas Commission (Commission)**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act.

We did not find an actual conflict of interest, but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The North Carolina Oil and Gas Commission was created to administer the Oil and Gas Conservation Act and to establish a program for the management of oil and gas exploration and development in the State, including the use of horizontal drilling and hydraulic fracturing treatments for that purpose. The Commission will regulate the spacing of wells, establish drilling units, limit and prorate the production of oil and gas, or both, from any pool or field for the prevention of waste, classify wells for taxing purposes and provide for the productive and efficient development of the State's oil and gas resources.

The State Government Ethics Act establishes ethical standards for certain public servants, including conflict of interest standards. N.C.G.S. §138A-31 prohibits public servants from using their positions for their financial benefit or for the benefit of a member of their extended family or a business with which they are associated. N.C.G.S. §138A-36(a) prohibits public servants from participating in certain official actions from which the public servant, his or her client(s), a member of the public servant's extended family, or a business or non-profit with which the public servant or a member of the public servant's immediate family is associated may receive a reasonably foreseeable financial benefit.

Mrs. Salmon will fill the role of an elected official of a municipal government located in a region of North Carolina that has oil and gas potential. She is a member of the Sanford City Council. She disclosed that her husband Brad Salmon is a partner with The Salmon Law Firm. As such, she has the potential for a conflict of interest and should exercise appropriate caution in the performance of her public duties should The Salmon Law Firm come before the Commission for official action.

In addition to the conflicts standards noted above, N.C.G.S. §138A-32 prohibits public servants from accepting gifts, directly or indirectly (1) from anyone in return for being influenced in the discharge of their official responsibilities, (2) from a lobbyist or lobbyist principal, or (3) from a person or entity which is doing or seeking to do business with the public servant's agency, is regulated or controlled by the public servant's agency, or has particular financial interests that may be affected by the public servant's official actions. Exceptions to the gifts restrictions are set out in N.C.G.S. §138A-32(e).

The Honorable Roy A. Cooper, III
February 15, 2018
Page 2 of 2

Pursuant to N.C.G.S. 138A-15(c), when an actual or potential conflict of interest is cited by the Commission under N.C.G.S. 138A-24(e) with regard to a public servant sitting on a board, the conflict shall be recorded in the minutes of the applicable board and duly brought to the attention of the membership by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the State Government Ethics Act.

Finally, the State Government Ethics Act mandates that all public servants attend an ethics and lobbying education presentation. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the State Government Ethics Act.

Sincerely,

A handwritten signature in cursive script that reads "Lisa S. Johnson".

Lisa Johnson, Paralegal
NC Board of Elections & Ethics Enforcement

cc: Ms. Rebecca W. Salmon

Attachment: Ethics Education Flyer



NORTH CAROLINA STATE BOARD OF ELECTIONS AND
ETHICS ENFORCEMENT

2018 STATEMENT OF ECONOMIC INTEREST
CONTACT INFORMATION

This contact information page will not be available on the
Commission's website, but it is a public document.

919-814-3600

www.ncsbe.gov/Ethics/SEI

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Mrs.	Rebecca	Wyhof	Salmon	
MAILING ADDRESS				
Address		City	State	ZIP
2006 Lee Avenue		Sanford	NC	27330-0000
DAYTIME PHONE NUMBER		ALTERNATE PHONE NUMBER		
919-721-6881		919-721-6881		
E-MAIL ADDRESS				
rwyhof@windstream.net				
HOME ADDRESS: PROVIDE YOUR HOME ADDRESS ONLY IF YOU ARE HOLDING OR SEEKING AN ELECTED OFFICE WITH A RESIDENCY REQUIREMENT. This requirement does not apply to Judicial Officers. Judicial officer means Justice or Judge of the General Court of Justice, District Attorney, or Clerk of Court, or any individual elected or appointed to any of these positions prior to taking office. <input checked="" type="checkbox"/> Same As Mailing Address				
Address		City	State	ZIP



NORTH CAROLINA STATE BOARD OF ELECTIONS
AND ETHICS ENFORCEMENT
2018 STATEMENT OF ECONOMIC INTEREST

919-814-3600

www.ncsbe.gov/Ethics/SEI

COMPLETE THIS FORM AND MAIL SIGNED, ORIGINAL TO
STATE ETHICS COMMISSION, 1324 MAIL SERVICE CENTER, RALEIGH, NC 27699-1324

FILER'S NAME (FIRST, MIDDLE, LAST)				
Prefix	First Name	Middle Name	Last Name	Suffix
Mrs.	Rebecca	Wyhof	Salmon	
CURRENT EMPLOYER			JOB TITLE	
Blue Roof Strategies			President	
NATURE OR TYPE OF BUSINESS				
Marketing and Events Consulting				
REASON FOR FILING (SELECT ALL THAT APPLY)				
STATE GOVERNMENT JOB (Specify Agency)			BOARD/COMMISSION (List complete name of all State boards on which you are serving or are being considered)	
			Oil and Gas Commission;	
JUDICIAL OFFICER (Specify Office)			LEGISLATOR (Specify House or Senate)	

A. Do other immediate family members reside in your household?

Yes ☐ No

When used throughout this form, the term **Immediate family** includes your spouse (unless legally separated). It also includes members of your extended family (your and your spouse's children, grandchildren, parents, grandparents, and siblings, and the spouses of each of those persons) **who reside in your household**.

List the full name of **all adults and emancipated minors** in your household. A minor is a child under 18 years old. Minors are emancipated by marriage, enlistment in the US military, or court order for emancipation.

FULL NAME OF ADULTS & EMANCIPATED MINORS	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS
Brad Andrew Salmon	Spouse	The Salmon Law Firm	Partner	Law Firm

B. List **ONLY** the initials of all **unemancipated minors** in your household below. A minor is a child under 18 years old.

Note: You must list the full name of each minor child on the Confidential Form available at the end of this document.

INITIALS FOR UNEMANCIPATED CHILDREN	RELATIONSHIP	EMPLOYER	JOB TITLE	NATURE OF BUSINESS

PROPERTY INTERESTS

1. As of December 31, 2017, did you, your spouse, or members of your immediate family:

A. Have an ownership interest in North Carolina real estate (including your residence) with a market value of \$10,000 or more?

Yes ☐ No

Owner of Real Estate	% Ownership Interest	Location by City	Location by County
Rebecca Wyhof Salmon	100	Sanford	Lee
Brad Andrew Salmon	33.33	Lillington	Harnett

B. Lease or rent real estate or personal property to or from the State of North Carolina with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Lessor	Name of Lessee (Renter)	If Real Estate, Location by City & County	If Personal Property, Describe

2. At any time during 2016 or 2017, did you, your spouse, or members of your immediate family sell to or buy from the State of North Carolina personal property with a market value of \$10,000 or more?

☐ Yes ☒ No

Name of Purchaser	Name of Seller	Type of Property

FINANCIAL INTERESTS

3. As of December 31, 2017, did you, your spouse, or members of your immediate family own any of the following financial interests valued at \$10,000 or more? LIST EACH COMPANY INDIVIDUALLY

A. Stock in a publicly owned company?

☒ Yes ☐ No

- ▶ Do not list ownership interests in a widely held investment fund (including mutual funds, regulated investment companies, or pension or deferred compensation plans) if: (i) the fund is publicly traded or its assets are widely diversified; and (ii) neither you nor an immediate family member are able to control the assets held in the mutual fund, investment company, or pension or deferred compensation plan.

Owner of Interest	Full Name of Company (Do not use a ticker symbol)
Rebecca Wyhof Salmon	CISCO SYSTEMS INC

B. Stock Options in a company or business?

☐ Yes ☒ No

Owner of Stock Option	Full Name of Company (Do not use a ticker symbol)

C. Interests in a non-publicly owned company or business entity (including interests in sole proprietorships, partnerships, limited partnerships, joint ventures, limited liability companies, limited liability partnerships, and closely held corporations)?

☒ Yes ☐ No If "No", proceed to question 4.

Owner of Interest	Name of Company or Business Entity
Rebecca Wyhof Salmon	Blue Roof Strategies, LLC
Brad Salmon	The Salmon Law Firm

C (1). For each non-publicly owned company or business entity (the "primary company") identified in question 3.C above, please list the names of *any other companies or business entities* in which the primary company owns securities or equity interests valued at over \$10,000, *if known*.

Non-Publicly Owned Company or Business Entity (the Primary Company)	Other Companies in which the Primary Company Owns Security or Equity Interests
<input checked="" type="checkbox"/> None or Not Known	

C (2). If you know that any company or business entity listed in 3.C or 3.C(1) above has any material business dealings or business contracts with the *State of North Carolina*, or is *regulated by the State*, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> None or Not Known	
The Salmon Law Firm	IDS Contract with the State of North Carolina for legal services

4. As of December 31, 2017, were you, your spouse, or members of your immediate family the beneficiaries of a vested trust with a value of \$10,000 or more that was created, established, or controlled by you?

Do not list assets held in blind trusts. See 2017 SEI Helpful Tips for the definition of "Vested Trust" and "Blind Trust."

☐ Yes ☒ No

Name and Address of Trustee	Description of the Trust	Your Relationship to the Trust

5. As of December 31, 2017, did you, your spouse, or members of your immediate family have liabilities of \$10,000 or more, excluding the mortgage on your primary personal residence? Examples include credit card debts, auto loans, student loans, personal loans and intra-family debt.

☐ Yes ☒ No

Name of Debtor (You, Spouse, Immediate Family Member)	Type of Creditor (Commercial Bank, Credit Union, Individual, etc.)
Brad Salmon	Credit Union

6. List each source of income (not specific amounts) of more than \$5,000 received by you, your spouse, or members of your immediate family during 2017. Include salary, wages, state/local government retirement, professional fees, honoraria, interest, dividends, rental income, business income, and other types of income required to be reported on your State and federal tax returns.

Do not include income received from the following sources:

- ▶ Capital gains
- ▶ Federal government retirement
- ▶ Military retirement
- ▶ Social security income/SSDI

Recipient of Income	Name of Source	Type of Business/Industry	Type of Income
<input type="checkbox"/> I had no reportable income over \$5,000 in 2017.			
Rebecca Wyhof Salmon	City of Sanford	Government	Salary
Rebecca Wyhof Salmon	Blue Roof Strategies	Marketing and Event Consulting	Business Income
Brad Salmon	State of North Carolina	Government	Salary
Brad Salmon	The Salmon Law Firm	Law Firm	Salary
Brad Salmon	Salmon Farms	Farm	Farm Income

PROFESSIONAL AND CIVIC RELATIONSHIPS

7(a). During 2017, were you, your spouse or members of your immediate family a director, officer, governing board member, employee, independent contractor, or registered lobbyist of a nonprofit corporation or organization operating in the State of North Carolina primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes?

Yes ☐ No ☐ If "No", proceed to question 8.

- ▶ Do not list State boards or entities, or entities created by a political subdivision of the State.
- ▶ Do not list organizations of which you are a mere member.

Name of Person	His/Her Position	Name of Nonprofit Corporation or Organization	Nature of Business or Purpose of Organization
Rebecca Wyhof Salmon	Board Member	United Way of Lee County	Nonprofit
Rebecca Wyhof Salmon	Independent Contractor	North Carolina Building Performance Association	Nonprofit
Rebecca Wyhof Salmon	Independent Contractor	North Carolina Telephone Cooperative Coalition, Inc.	Nonprofit
Rebecca Wyhof Salmon	Independent Contractor	Carolina-Virginia Telephone Membership Association, Inc.	Nonprofit
Brad Salmon	Board Member	Stevens Center	Nonprofit
Brad Salmon	Board Member	Leadership Harnett	Nonprofit
Brad Salmon	Board Member	Central Carolina Community College Foundation	Nonprofit

7(b). If the nonprofit corporations or organizations listed above do business with the State of North Carolina or receive State funds, please provide a brief description of the nature of that business, if known or with which due diligence could reasonably be known.

Name of Nonprofit Corporation or Organization	Describe State Business or State Funding
<input checked="" type="checkbox"/> None or Not Known	

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

8. During 2017, were you, your spouse, or members of your immediate family a director, officer, or governing board member of any society, organization, or advocacy group with an interest in matters over which your agency or board may have jurisdiction?

☐ Yes ☒ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer or you are filing as an appointee to those offices.

► Do not list organizations of which you are only a member (not serving in a leadership role).

Name of Person	Name of Society, Organization or Advocacy Group	Leadership Position (Director, Officer, Board Member)

9(a). List the name of each company or business with which you were associated where you or a member of your immediate family was an employee, director, officer, partner, proprietor, or member or manager as of December 31, 2017.

Name of Person	Relationship to Filer	Name of Company	Role of Person
<input type="checkbox"/> No Business Associations			
Rebecca Wyhof Salmon	Self	Blue Roof Strategies, LLC	President
Brad Salmon	Spouse	The Salmon Law Firm	Partner

9(b). If you know that any company or business entity listed in 9(a) above had any material business dealings or business contracts with the State of North Carolina or was regulated by the State as of December 31, 2017, provide a brief description of that business activity.

Name of Company or Business Entity	Description of Business Activity with the State
<input type="checkbox"/> Not applicable (No entities listed on #9a) <input type="checkbox"/> No relationship / Not known	
The Salmon Law Firm	IDS Contract with the State of North Carolina for legal services

10. Are you a practicing attorney?

☐ Yes ☐ No ☐ Judicial Officer/State Attorney

If "Yes", check each category of legal representation in which you or the law firm with which you are affiliated has earned legal fees of more than \$10,000 during 2017.

☐ Administrative ☐ Admiralty ☐ Corporate ☐ Criminal
☐ Decedent's Estates ☐ Environmental ☐ Insurance ☐ Labor
☐ Local Government ☐ Real Property ☐ Securities ☐ Tax
☐ Tort litigation (including negligence) ☐ Utilities Regulation ☐ Other category not listed.

11. During 2017, were you a licensed professional (other than an attorney) or did you provide consulting services individually or as a member of a professional association for which you charged or were paid over \$10,000?

☐ Yes ☐ No

Type of Business	Nature of Services Rendered

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

12. Are you or your employer, your spouse or members of your immediate family, or their employer currently:

- Licensed by the State board or employing entity with which you are or will be associated or
- Regulated by the State board or employing entity with which you are or will be associated or
- Have a business relationship with the State board or employing entity with which you are or will be associated?

☐ Yes ☐ No ☐ Legislator/Judicial Officer - You are not required to complete this question if you are filing because you are a legislator or a judicial officer ("judicial officer" is defined in the SEI Helpful Tips) or you are filing as an appointee to those offices.

Name of Person	Name of Employer (if applicable)	Type of Relationship (Licensing, Regulatory, Business)

13. Are you, your spouse, or a member of your immediate family currently registered as a lobbyist or lobbyist principal or were you registered as such within the 12 months preceding your filing of this form?

☒ Yes ☐ No

Name of Lobbyist	Lobbyist's Principal	Date of Registration	Registration Expiration
Brad Salmon	State of North Carolina (Department of Public Safety Liason)	3/31/2017	10/2/2017

OTHER DISCLOSURES

14. During any calendar quarter in 2017 (but only the time period after you were appointed, employed or filed or were nominated as a candidate), did you

- receive any gift(s) exceeding \$200 per quarter from a person or group of persons acting together, and
- when both you and those person(s) were outside North Carolina at the time you accepted the gift(s), and
- the gift(s) were given under circumstances that would lead a reasonable person to conclude that they were given for lobbying?

☐ Yes ☐ No

- ▶ Do not report gifts given by members of your extended family.
- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."

Date Item Received	Name and Address of Donor(s)	Describe Item Received	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

15. During 2017 (but only the time period after you were appointed, employed, or filed or were nominated as a candidate) did you

- accepted a "scholarship" exceeding \$200 from a person or group of persons acting together and
- those person(s) were outside North Carolina and
- the scholarship was related to your public position? A "scholarship" is a grant-in-aid, either direct or indirect, to attend a conference, meeting, or similar event, including tuition, travel, lodging, meals, and other similar expenses.

☐ Yes ☐ No ☐ Judicial Officer - You are not required to complete this question if you are a judicial officer or you are filing as a judicial officer appointee.

- ▶ Do not report gifts that have previously been reported by you to the Department of the Secretary of State on the "Expense Report for Exempted Persons."
- ▶ Legislators are not required to report scholarships paid by a nonpartisan legislative organization of which the legislator or the General Assembly is a member or participant or an affiliate of that organization.

Date of Scholarship	Name and Address of Donor(s)	Describe Event	Estimated Market Value

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

16. Were you appointed or are you being considered for an appointment to a covered board by the Governor or another Council of State member?

Council of State members are:

- Governor
- Lt. Governor
- Secretary of State
- State Auditor
- State Treasurer
- Superintendent of Public Instruction
- Attorney General
- Commissioner of Agriculture
- Commissioner of Labor
- Commissioner of Insurance

Yes ☐ No

If "Yes", list all contributions you (NOT immediate family members) made during 2017 with a cumulative total of more than \$1,000 to the Governor or other Council of State member who appointed you.

- Contributions are defined in N.C.G.S. 163-278.6(6) and include, but are not limited to, "any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, gift, pledge or subscription of money or anything of value whatsoever."

Date	Amount	Contributed to
No contribution(s) with a cumulative total of more than \$1,000		

Please answer the following question as it pertains to the following board/agency:

Oil and Gas Commission

17. Are you an appointee or prospective appointee to:

- a. the head of a principal state department (e.g. cabinet secretary) appointed by the Governor;
or
b. a North Carolina Supreme Court Justice, Court of Appeals, Superior or District Court Judge;
or
c. a member of any of the following boards:

- ABC Commission
- Coastal Resources Commission
- State Board of Education
- State Board of Elections
- Division of Employment Security
- Environmental Management Commission
- Industrial Commission
- Human Resources Commission
- Rules Review Commission
- Board of Transportation
- UNC Board of Governors
- Utilities Commission
- Wildlife Resources Commission

☐ Yes ☐ No

If "No", proceed to question 18.

d. If so, were you appointed or are you being considered for appointment to that public position by a Council of State member? Council of State members are listed in question 16.

☐ Yes ☐ No

If "No", proceed to question 18.

e. If so, you must indicate whether during 2017 you (not immediate family members) engaged in any of the following activities with respect to or on behalf of the candidate or campaign committee of the Council of State member who appointed you to your public position:

☐ Yes ☐ No

i. Collected contributions from multiple contributors, took possession of such multiple contributions, and transferred or delivered those collected contributions to the candidate or committee? Contributions are defined in question 16.

ii. Hosted a fundraiser at your residence or place of business?

☐ Yes ☐ No

iii. Volunteered for campaign-related activities, which include, but are not limited to, phone banks, event assistance, mailings, canvassing, surveying, or any other activity that advances the campaign of a candidate?

☐ Yes ☐ No

18. Have you ever been convicted of a felony for which you have not received either: (i) a pardon of innocence; or (ii) an order of expungement regarding that conviction?

☐ Yes ☐ No

Offense	Date of Conviction	County of Conviction	State of Conviction

19. Are you aware of any other information that *you believe* may assist the State Ethics Commission in advising you concerning your compliance with the State Government Ethics Act?

☐ Yes ☒ No If yes, please provide such information below.

AFFIRMATION

I affirm that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

I also certify that I have not transferred, and will not transfer, any asset, interest, or property for the purpose of concealing it from disclosure while retaining an equitable interest.

I understand that my Statement of Economic Interest and any attachments or supplements thereto (with the exception of the Confidential Form regarding Unemancipated Children) are public record.

I acknowledge that I have read and understand N.C.G.S. 138A-26 regarding concealing or failing to disclose material information and N.C.G.S. 138A-27 regarding providing false information:

§ 138A-26. Concealing or failing to disclose material information.

A filing person who knowingly conceals or knowingly fails to disclose information that is required to be disclosed on a statement of economic interest under this Article shall be guilty of a Class 1 misdemeanor and shall be subject to disciplinary action under G.S. 138A-45.

§ 138A-27. Penalty for false information.

A filing person who provides false information on a statement of economic interest as required under this Article knowing that the information is false is guilty of a Class H felony and shall be subject to disciplinary action under G.S. 138A-45.

☒ I Agree. It is my intention that this check box constitutes my electronic signature. By checking this box I certify that the information provided in this Statement of Economic Interest and any attachments hereto are true, complete, and accurate to the best of my knowledge and belief.

Filed Electronically

2/13/2018

Signature

Date

Rebecca Wyhof Salmon

Printed Name



[illegible]



Senate Committee on Agriculture/Environment/Natural Resources
Thursday, December 6, 2018, (Immediately following Senate recess)
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Presentations

BILL NO.	SHORT TITLE	SPONSOR
SB 821	Sunset Unconstitutional Boards & Commissions	Senator Andy Wells

Other Business

Adjournment



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE REPORT

**Senator Cook, Co-Chair
Senator Sanderson, Co-Chair
Senator Wells, Co-Chair**

Thursday, December 06, 2018

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

FAVORABLE

SB 821

Sunset Unconstitutional Boards & Commissions.

Draft Number:	None
Sequential Referral:	Rules and Operations of the Senate
Recommended Referral:	None
Long Title Amended:	No

TOTAL REPORTED: 1

Senator Andy Wells will handle SB 821



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Senate Committee on Agriculture/Environment/Natural Resources
Thursday, December 6, 2018 at 11:00 AM
Room 1027/1128 of the Legislative Building

Minutes

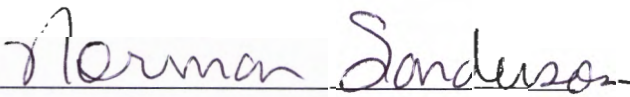
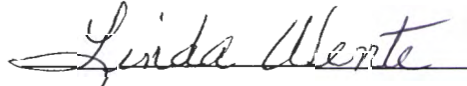
The Senate Committee on Agriculture/Environment/Natural Resources met at 11:00AM on December 6, 2018, in Room 1027/1128 of the Legislative Building. 10 members were present.

Senator Norman Sanderson, Chair, presided.

Senator Sanderson welcomed Committee members and guests and thanked Sergeants-at-Arms Terry Barnhardt and Terry Edmondson. There were 10 members present.

SB 821 Sunset Unconstitutional Boards and Commissions (Senator Andy Wells) Senator Wells presented the bill. Senate Bill 821 is an act to repeal statutes creating The Child Care Commission; The Clean Water Management Trust Fund Board of Trustees; The North Carolina Parks and Recreation Authority; The Private Protective Services Board; The Rural Infrastructure Authority; and The State Building Commission for which the appointed structures were ruled unconstitutional pursuant to *McCrary v. Berger* and *Cooper v. Berger*. Senator Wells answered questions from Senators Alexander, Chaudhuri, Smith and Waddell. Senator Wells recognized Jeff Hudson from Legislative Analysis to answer questions. Senator Sanderson recognized Lex Janes from Department of Natural and Cultural Resources to answer Senator Erica Smith's questions. Senator Rabin moved for a favorable report with a sequential referral to Rules and Operations of the Senate.

There being no further business, the meeting adjourned at 11:20 AM.

Senator Norman Sanderson, Chair Presiding

Linda Wentz, Committee Clerk



GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 821

Short Title: Sunset Unconstitutional Boards & Commissions.

(Public)

Sponsors: Senator Wells (Primary Sponsor).

Referred to: Rules and Operations of the Senate

November 27, 2018

A BILL TO BE ENTITLED

AN ACT TO REPEAL STATUTES CREATING THE CHILD CARE COMMISSION; THE
CLEAN WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES; THE
NORTH CAROLINA PARKS AND RECREATION AUTHORITY; THE PRIVATE
PROTECTIVE SERVICES BOARD; THE RURAL INFRASTRUCTURE AUTHORITY;
AND THE STATE BUILDING COMMISSION FOR WHICH THE APPOINTED
STRUCTURES WERE RULED UNCONSTITUTIONAL PURSUANT TO MCCRORY V.
BERGER AND COOPER V. BERGER.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Child Care Commission. – G.S. 143B-168.4 is repealed.

SECTION 1.(b) Clean Water Management Trust Fund Board of Trustees. –
G.S. 143B-135.240 is repealed.

SECTION 1.(c) North Carolina Parks and Recreation Authority. –
G.S. 143B-135.202 is repealed.

SECTION 1.(d) Private Protective Services Board. – G.S. 74C-4 is repealed.

SECTION 1.(e) Rural Infrastructure Authority. – G.S. 143B-472.128(a)-(i) is
repealed.

SECTION 1.(f) State Building Commission. – G.S. 143-135.25 is repealed.

SECTION 2. This act becomes effective June 30, 2019. The Department of Natural
and Cultural Resources shall serve as the successor-in-interest for all outstanding loans, bonds,
notes, or other instruments payable to the Clean Water Management Trust Fund Board of
Trustees. The Rural Economic Development Division shall serve as the successor-in-interest for
all outstanding loans or other instruments payable to the Rural Infrastructure Authority.





VISITOR REGISTRATION SHEET

Senate Agriculture / Environment / Natural Resources Committee

Thursday, December 6, 2018

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Ken Melton	K. MIA
Hugh Johnson	NCDC
TJ Bugbee	NCOAA
Clavdin Shoemaker	Governors Office
Hattie Grawande	DHHS
MaH Gross	DHHS
Laura R. Lee	NCDARS
Sarah Wolfe	MWC
Don Whit	NCEM
Tom BEAN	NCWF, EDF
Sam WATTS	DST
Joy Alden	NCOT
Deans Estman	NCOT
Al De	NCDPS
Lex Davis	DNCE



VISITOR REGISTRATION SHEET

Senate Agriculture / Environment / Natural Resources Committee

Thursday, December 6, 2018

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Sarah McShillan	Kaivos for Affairs
Will Robinson	The Nature Conservancy
Katy King	OR
Melissa Lahey	Fiscal Research



