

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

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**HOUSE BILL 1537  
Committee Substitute Favorable 9/25/02**

Short Title: Amend Environmental Laws 2002.

(Public)

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Sponsors:

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Referred to:

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June 6, 2002

A BILL TO BE ENTITLED

1 AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS TO: (1) EXTEND  
2 THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE  
3 MANAGEMENT SYSTEMS AND TO AMEND THE REPORTING  
4 REQUIREMENT FOR THE PILOT PROGRAM, AS RECOMMENDED BY THE  
5 ENVIRONMENTAL REVIEW COMMISSION; (2) PROVIDE THAT MEMBERS  
6 OF THE SOIL AND WATER CONSERVATION COMMISSION MAY HOLD  
7 CONCURRENT OFFICES CONSISTENT WITH THE PROVISIONS OF THE  
8 CONSTITUTION OF NORTH CAROLINA; (3) AUTHORIZE THE SOIL AND  
9 WATER CONSERVATION COMMISSION TO APPROVE GRANTS FOR  
10 SMALL WATERSHED PROJECTS RELATED TO DAM REHABILITATION  
11 AND IMPROVEMENT; (4) PROVIDE THAT MEMBERS OF THE  
12 ENVIRONMENTAL REVIEW COMMISSION WHO ARE NOT REELECTED  
13 TO THE GENERAL ASSEMBLY MAY COMPLETE THEIR TERM OF  
14 SERVICE ON THE COMMISSION; (5) PROVIDE THAT THE EASTERN BAND  
15 OF CHEROKEE INDIANS IN NORTH CAROLINA MAY RECEIVE FUNDS  
16 FROM THE CLEAN WATER REVOLVING LOAN AND GRANT FUND; (6)  
17 AUTHORIZE THE STATE INFRASTRUCTURE COUNCIL TO MEET IN THE  
18 LEGISLATIVE BUILDING AND LEGISLATIVE OFFICE BUILDING IN  
19 CERTAIN CIRCUMSTANCES; AND (7) AUTHORIZE THE DEPARTMENT OF  
20 ENVIRONMENT AND NATURAL RESOURCES TO TRANSFER FUNDS  
21 FROM THE GENERAL WATER SUPPLY REVOLVING LOAN AND GRANT  
22 ACCOUNT TO THE EMERGENCY WATER SUPPLY REVOLVING LOAN  
23 ACCOUNT IN ORDER TO ASSIST WATER SUPPLY SYSTEMS  
24 EXPERIENCING A DROUGHT EMERGENCY.  
25

26 The General Assembly of North Carolina enacts:

27 **SECTION 1.1.** Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1  
28 of S.L. 1999-329 and Section 5 of S.L. 2001-254, reads as rewritten:

1       "(a) The Department of Environment and Natural Resources shall develop and  
2 implement a pilot program to begin no later than 1 November 1997, and to terminate 1  
3 September ~~2002,2003~~, regarding the annual inspections of animal operations that are  
4 subject to a permit under Article 21 of Chapter 143 of the General Statutes. The  
5 Department shall select two counties located in a part of the State that has a high  
6 concentration of swine farms to participate in this pilot program. In addition, Brunswick  
7 County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division  
8 of Soil and Water Conservation of the Department of Environment and Natural  
9 Resources shall conduct inspections of all animal operations that are subject to a permit  
10 under Article 21 of Chapter 143 of the General Statutes in these three counties at least  
11 once a year to determine whether any animal waste management system is causing a  
12 violation of water quality standards and whether the system is in compliance with its  
13 animal waste management plan or any other condition of the permit. The personnel of  
14 the Division of Soil and Water Conservation who are to conduct these inspections in  
15 each of these three counties shall be located in an office in the county in which that  
16 person will be conducting inspections. As part of this pilot program, the Department of  
17 Environment and Natural Resources shall establish procedures whereby resources  
18 within the local Soil and Water Conservation Districts serving the three counties are  
19 used for the quick response to complaints and reported problems previously referred  
20 only to the Division of Water Quality of the Department of Environment and Natural  
21 Resources."

22       **SECTION 1.2.** Section 3.3 of S.L. 1999-329, as amended by Section 6 of  
23 S.L. 2001-254, reads as rewritten:

24       "Section 3.3. The Department of Environment and Natural Resources, in  
25 consultation with both the Division of Water Quality and the Division of Soil and Water  
26 Conservation, shall submit interim reports no later than 15 October 1999, 15 April 2000,  
27 15 October 2000, 15 April 2001, 15 October 2001, ~~and 15 April 2002~~2002, and 15 April  
28 2003 and shall submit a final report no later than ~~15 October 2002~~1 October 2003 to the  
29 Environmental Review Commission and to the Fiscal Research Division. These reports  
30 shall indicate whether the pilot program has increased the effectiveness of the annual  
31 inspections program or the response to complaints and reported problems, specifically  
32 whether the pilot program had resulted in identifying violations earlier, taking corrective  
33 actions earlier, increasing compliance with the animal waste management plans and  
34 permit conditions, improving the time to respond to discharges, complaints, and  
35 reported problems, improving communications between farmers and Department  
36 employees, and any other consequences deemed pertinent by the Department. These  
37 reports shall also compare the costs of conducting operations reviews and inspections  
38 under the pilot program with the costs of conducting operations reviews and inspections  
39 pursuant to G.S. 143-215.10D and G.S. 143-215.10F. The final report shall include a  
40 recommendation as to whether to continue or expand the pilot program under this act.  
41 The Environmental Review Commission may recommend to the 2003 General  
42 Assembly whether to continue or expand the pilot program under this act and may make  
43 any related legislative proposals."

44       **SECTION 2.** G.S. 143B-295 reads as rewritten:

1 **"§ 143B-295. Soil and Water Conservation Commission – members; selection;**  
2 **removal; compensation; quorum; services.**

3 (a) The Soil and Water Conservation Commission of the Department of  
4 Environment and Natural Resources shall be composed of seven members appointed by  
5 the Governor. The Commission shall be composed of the following members:

- 6 (1) The president, first vice-president, and immediate past president of the  
7 North Carolina Association of Soil and Water Conservation Districts.  
8 Vacancies arising in any of these positions shall be filled through  
9 appointment by the Governor upon the nomination by the executive  
10 committee of the North Carolina Association of Soil and Water  
11 Conservation Districts;
- 12 (2) Three supervisor members nominated by the North Carolina  
13 Association of Soil and Water Conservation Districts from its own  
14 membership representing the three major geographical regions of the  
15 State and appointed by the Governor;
- 16 (3) One member appointed at large by the Governor.

17 (b) ~~The initial members of the Commission shall be the members of the Soil~~  
18 ~~Conservation Committee who shall serve for a period equal to the remainder of their~~  
19 ~~current terms on the Soil Conservation Committee. At the end of the respective terms of~~  
20 ~~office of the initial members of the Commission, their successors, The members of the~~  
21 Commission, except those members serving in an ex officio capacity, shall be appointed  
22 for terms of three years and shall serve until their successors are appointed and  
23 qualified. Any appointment to fill a vacancy on the Commission created by the  
24 resignation, dismissal, death or disability of a member shall be for the balance of the  
25 unexpired term.

26 (c) The office of member of the Soil and Water Conservation Commission may  
27 be held concurrently with any other elected or appointed office, as authorized by G.S.  
28 128-1.1 and Article VI, Section 9, of the Constitution of North Carolina.

29 (d) The Governor shall have the power to remove any member of the  
30 Commission from office for misfeasance, malfeasance, and nonfeasance according to  
31 the provisions of ~~G.S. 143B-13 of the Executive Organization Act of 1973.~~G.S.  
32 143B-13.

33 (e) The members of the Commission shall receive per diem and necessary travel  
34 and subsistence expenses in accordance with the provisions of G.S. 138-5.

35 (f) A majority of the Commission shall constitute a quorum for the transaction of  
36 business.

37 (g) All clerical and other services required by the Commission shall be supplied  
38 by the Secretary of Environment and Natural Resources."

39 **SECTION 3. G.S. 139-54 reads as rewritten:**

40 **"§ 139-54. Purposes for which grants may be requested.**

41 Applications for grants may be made for the nonfederal share of small watershed  
42 projects for the following purposes in amounts not to exceed the percentage of the  
43 nonfederal costs indicated:

- 1 (1) Land rights acquisition for impounding or retarding water – fifty  
2 percent ~~(50%)~~; (50%).
- 3 (2) Engineering fees – fifty percent ~~(50%)~~; (50%).
- 4 (3) Anticipated future and present water supply needs in conjunction with  
5 watershed improvement works or projects as described in G.S.  
6 139-37.1 – fifty percent ~~(50%)~~; (50%).
- 7 (4) Installation of recreational facilities and services (to include land  
8 acquisition) as described in G.S. 139-46 – fifty percent ~~(50%)~~; (50%).
- 9 (5) Construction costs for water management (drainage or irrigation)  
10 purposes, including utility and road relocations not funded by the State  
11 Department of Transportation – sixty-six and two-thirds percent ~~(66~~  
12 ~~2/3%)~~; (66 2/3%).
- 13 (6) Conservation and replacement of fish and wildlife habitat as described  
14 in G.S. 139-46 – seventy-five percent (75%).
- 15 (7) Rehabilitation or improvement of water resources structural measures  
16 in accordance with criteria established by the Natural Resources  
17 Conservation Service of the United States Department of Agriculture  
18 pursuant to the Watershed Protection and Flood Prevention Act of  
19 1954, as amended by the Small Watershed Rehabilitation Amendments  
20 of 2000 (Pub. L. No. 106-472, 114 Stat. 2007), codified at 16 U.S.C. §  
21 1001, et. seq.; the Dam Safety Law of 1967, G.S. 143-215.23, et. seq.;  
22 and rules adopted pursuant thereto – fifty percent (50%)."

23 **SECTION 4.** G.S. 120-70.42 reads as rewritten:

24 "**§ 120-70.42. Membership; cochairs; vacancies; quorum.**

25 (a) The Environmental Review Commission shall consist of six Senators  
26 appointed by the President Pro Tempore of the Senate, six Representatives appointed by  
27 the Speaker of the House of Representatives, who shall serve at the pleasure of their  
28 appointing officer, the Chair of the Senate Committee on ~~Environment-Agriculture,~~  
29 Environment, and Natural Resources, ~~Resources or the equivalent committee,~~ and the  
30 Chair of the House of Representatives Committee on ~~the Environment.~~ Environment and  
31 Natural Resources or the equivalent committee.

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

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

1 (d) A quorum of the Environmental Review Commission shall consist of eight  
2 members."

3 **SECTION 5.** G.S. 159G-3(10) reads as rewritten:

4 "(10) 'Local government unit' means a county, city, town, incorporated  
5 village, consolidated city-county, as defined by G.S. 160B-2(1),  
6 including such a consolidated city-county acting with respect to an  
7 urban service district defined by a consolidated city-county, sanitary  
8 district, metropolitan sewerage district, metropolitan water district,  
9 county water and sewer district, water and sewer authority, joint  
10 agency authorized by agreement between two cities and towns to  
11 operate an airport pursuant to G.S. 63-56 and that also provided water  
12 and wastewater services off the airport premises before January 1,  
13 1995, ~~or~~ joint agency created pursuant to Part 1 of Article 20 of  
14 Chapter 160A of the General ~~Statutes~~.Statutes, or the Eastern Band of  
15 Cherokee Indians in North Carolina."

16 **SECTION 6.** G.S. 143B-344.32 reads as rewritten:

17 "**§ 143B-344.32. Staff and offices.**

18 The Department of Environment and Natural Resources shall provide office space  
19 and staff for the State Infrastructure Council as requested by the Council. Upon the  
20 request of a chair of the State Infrastructure ~~Council~~,Council who is also a member of  
21 the General Assembly, the Legislative Services Office shall also provide professional  
22 staff services to the Council. Upon the request of a chair of the State Infrastructure  
23 Council who is also a member of the General Assembly, the Council may meet in the  
24 Legislative Building or the Legislative Office Building upon the approval of the  
25 Legislative Services Commission."

26 **SECTION 7.** G.S. 159G-6(c) reads as rewritten:

27 "(c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing  
28 to the various Water Supply Accounts in each fiscal year shall be used to provide  
29 revolving loans and grants to applicants as provided below. The Department of  
30 Environment and Natural Resources shall disburse no funds from the Water Supply  
31 Accounts except upon receipt of written approval of the disbursement from the ~~Division~~  
32 ~~of Environmental Health~~.Secretary of Environment and Natural Resources.

33 (1) General Water Supply Revolving Loan and Grant Account. – The  
34 funds in the General Water Supply Revolving Loan and Grant Account  
35 shall be used exclusively for the purpose of providing for revolving  
36 construction loans and grants in connection with water supply systems  
37 generally and not upon a county allotment basis.

38 (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit  
39 Cost Water Supply Account shall be available for grants to applicants  
40 for high-unit cost water supply systems, on the same basis as provided  
41 in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.

42 (3) Emergency Water Supply Revolving Loan Account. – The funds in the  
43 Emergency Water Supply Revolving Loan Account shall be available  
44 for revolving emergency loans to applicants in the event the ~~Division~~

1                    ~~of Environmental Health~~Secretary of Environment and Natural  
2                    Resources certifies either that a serious public health hazard, related to  
3                    the water supply system, or that a drought emergency is present or  
4                    imminent in a community.

5                    (4) Inter-Account Transfers. – The Department of Environment and  
6                    Natural Resources may transfer funds from the General Water Supply  
7                    Revolving Loan and Grant Account to the Emergency Water Supply  
8                    revolving Loan Account in the event that the Secretary of Environment  
9                    and Natural Resources certifies that a drought emergency exists and  
10                   that additional emergency funds are needed to assist water supply  
11                   systems that are experiencing a drought emergency."

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