

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1766
Committee Substitute Favorable 7/1/10
Committee Substitute #2 Favorable 7/6/10
Fourth Edition Engrossed 7/7/10

Short Title: Amend Environmental Laws 2010.

(Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

1 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
2 LAWS TO: (1) CHANGE THE LOCATION OF THE HORIZONTAL CONTROL
3 MONUMENT FILES FOR PLAT AND SUBDIVISION MAPPING REQUIREMENTS;
4 (2) PROVIDE THAT THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE
5 SPEAKER OF THE HOUSE OF REPRESENTATIVES MAY DESIGNATE MULTIPLE
6 MEMBERS TO SERVE AS COCHAIRS OF THE ENVIRONMENTAL REVIEW
7 COMMISSION; (3) REPEAL THE REQUIREMENT THAT REMEDIAL ACTION
8 PLANS BE RECORDED IN THE REGISTER OF DEEDS OFFICE AND MODIFY THE
9 REQUIREMENT THAT REMEDIAL ACTION PLANS BE PLACED IN EACH PUBLIC
10 LIBRARY IN THE COUNTY; (4) REESTABLISH THE SURFACE WATER
11 IDENTIFICATION TRAINING AND CERTIFICATION PROGRAM AS A
12 COMPONENT OF THE RIPARIAN BUFFER PROTECTION PROGRAM; (5) AMEND
13 THE CUSTOMER REPORTING REQUIREMENTS FOR SMALL WASTEWATER
14 SYSTEMS; (6) AMEND CIVIL PENALTIES FOR CERTAIN AIR QUALITY
15 VIOLATIONS TO CONFORM WITH CHANGES MADE IN S.L. 2007-296; (7)
16 CHANGE THE NAME OF THE NORTH CAROLINA NATIONAL PARK, PARKWAY
17 AND FORESTS DEVELOPMENT COUNCIL TO THE WESTERN NORTH CAROLINA
18 PUBLIC LANDS COUNCIL; (8) CLARIFY THE STANDARDS FOR QUALIFICATION
19 OF VOLUNTARY WATER CONSERVATION AND WATER USE EFFICIENCY
20 PROGRAMS; (9) AMEND THE ENFORCEMENT AUTHORITY OF THE
21 DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES UNDER THE
22 DROUGHT MANAGEMENT PREPAREDNESS AND RESPONSE ACT; (10) AMEND
23 DESIGNATION OF THE MEMBER OF THE SEDIMENTATION CONTROL
24 COMMISSION REPRESENTING A NORTH CAROLINA PUBLIC UTILITY
25 COMPANY; (11) AMEND THE NOTICE REQUIREMENTS FOR CITIES, COUNTIES,
26 SANITARY DISTRICTS, AND WATER AND SEWER AUTHORITIES WHEN
27 IMPOSING OR INCREASING CERTAIN FEES OR CERTAIN CHARGES; (12)
28 PROVIDE THAT THE PROHIBITION ON ANY NEW OR INCREASED NUTRIENT
29 LOADING ALLOCATION APPLIES TO IMPAIRED DRINKING WATER SUPPLY
30 RESERVOIRS; (13) ESTABLISH THE NORTH CAROLINA WOOD AND CROP
31 BIOMASS STRATEGIC WORKING GROUP; (14) DIRECT CERTAIN STATE
32 AGENCIES TO REVIEW THEIR PLANNING AND REGULATORY PROGRAMS AND
33 RECOMMEND WHETHER THOSE PROGRAMS SHOULD INCLUDE
34



1 CONSIDERATION OF THE IMPACTS OF GLOBAL CLIMATE CHANGE; (15)
2 REQUIRE ALL PUBLIC AGENCIES TO RECYCLE ALL SPENT FLUORESCENT
3 LIGHTS AND MERCURY THERMOSTATS, REQUIRE THE REMOVAL OF ALL
4 FLUORESCENT LIGHTS AND MERCURY THERMOSTATS FROM BUILDINGS
5 PRIOR TO DEMOLITION, AND BAN MERCURY-CONTAINING PRODUCTS FROM
6 UNLINED LANDFILLS; (16) AUTHORIZE THE ENVIRONMENTAL REVIEW
7 COMMISSION TO STUDY THE PENALTIES APPLICABLE TO VIOLATIONS OF
8 G.S. 130A-309.10 (PROHIBITED ACTS RELATED TO PACKAGING; CODED
9 LABELING OF PLASTIC CONTAINERS REQUIRED; DISPOSAL OF CERTAIN
10 SOLID WASTES IN LANDFILLS OR BY INCINERATION PROHIBITED); (17)
11 PROVIDE THAT LOCAL GOVERNMENTS AND LARGE COMMUNITY WATER
12 SYSTEMS ONLY REQUIRE SEPARATE METERS FOR NEW IN-GROUND
13 IRRIGATION SYSTEMS FOR LOTS PLATTED AND RECORDED IN THE OFFICE
14 OF THE REGISTER OF DEEDS AFTER JULY 1, 2009, THAT ARE CONNECTED TO
15 THEIR SYSTEMS; (18) PROHIBIT THE USE OF HIGH ARSENIC CONTENT GLASS
16 BEADS WHEN MARKING STATE OR MUNICIPAL ROADS OR PUBLIC
17 VEHICULAR AREAS; (19) ENABLE TRADITIONAL COUNTRY STORES TO SELL
18 UNCOOKED SANDWICHES, PREPARED ON PREMISES BY STORE EMPLOYEES;
19 AND (20) CREATE AN EXPERIMENTAL PROGRAM IN WHICH THE CITY OF
20 GREENSBORO IS GIVEN A LIMITED EXEMPTION FROM THE REQUIREMENT
21 THAT BEAVERS TAKEN UNDER A DEPREDATION PERMIT MUST BE
22 EUTHANIZED OR RELEASED ON THE PROPERTY WHERE CAPTURED AND THE
23 CITY IS AUTHORIZED TO RELOCATE THOSE BEAVERS TO A SUITABLE
24 ALTERNATIVE HABITAT.

25 The General Assembly of North Carolina enacts:

26 **SECTION 1.** G.S. 47-30(f)(9) reads as rewritten:

27 "(9) Where the plat is the result of a survey, one or more corners shall, by a
28 system of azimuths or courses and distances, be accurately tied to and
29 coordinated with a horizontal control monument of some United States or
30 State Agency survey system, such as the North Carolina Geodetic Survey
31 where the monument is within 2,000 feet of the subject property. Where the
32 North Carolina Grid System coordinates of the monument are on file in the
33 ~~North Carolina Office of State Budget and Management, North Carolina~~
34 Geodetic Survey Section in the Division of Land Resources of the
35 Department of Environment and Natural Resources, the coordinates of both
36 the referenced corner and the monuments used shall be shown in X (easting)
37 and Y (northing) coordinates on the plat. The coordinates shall be identified
38 as based on "NAD 83," indicating North American Datum of 1983, or as
39 "NAD 27," indicating North American Datum of 1927. The tie lines to the
40 monuments shall also be sufficient to establish true north or grid north
41 bearings for the plat if the monuments exist in pairs. Within a previously
42 recorded subdivision that has been tied to grid control, control monuments
43 within the subdivision may be used in lieu of additional ties to grid control.
44 Within a previously recorded subdivision that has not been tied to grid
45 control, if horizontal control monuments are available within 2,000 feet, the
46 above requirements shall be met; but in the interest of bearing consistency
47 with previously recorded plats, existing bearing control should be used
48 where practical. In the absence of ~~Grid Control, grid control~~, other
49 appropriate natural monuments or landmarks shall be used. In all cases, the
50 tie lines shall be sufficient to accurately reproduce the subject lands from the
51 control or reference points used."

1 **SECTION 2.** G.S. 120-70.42(b) reads as rewritten:

2 "(b) The President Pro Tempore of the Senate shall designate one ~~Senator to serve as~~
3 ~~cochair or more Senators~~ and the Speaker of the House of Representatives shall designate one
4 ~~Representative to serve as cochair or more Representatives to serve as cochairs."~~

5 **SECTION 3.** G.S. 130A-310.4(b) reads as rewritten:

6 "(b) Before approving any remedial action plan, the Secretary shall make copies of the
7 proposed plan available for inspection as follows:

8 (1) A copy of the plan shall be provided to the local health director.

9 ~~(2) A copy of the proposed plan shall be filed with the register of deeds in the~~
10 ~~county or counties in which the site is located.~~

11 (3) A copy of the plan shall be provided to the each public library located in
12 closest proximity to the site in the county or counties in which the site is
13 located.

14 (4) The Secretary may place copies of the plan in other locations so as to assure
15 the availability thereof to the public.

16 In addition, copies of the plan shall be available for inspection and copying at cost by the
17 public during regular business hours in the offices of the agency within the Department with
18 responsibility for the administration of the remedial action program."

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

21 **"§ 143-214.25A. Riparian Buffer Protection Program: Surface Water Identification**
22 **Training and Certification Program.**

23 (a) The Division of Water Quality of the Department shall develop a program to train
24 and certify individuals to determine the presence of surface waters that would require the
25 application of rules adopted by the Commission for the protection of riparian buffers. The
26 Division may train and certify employees of the Division as determined by the Director of the
27 Division of Water Quality; employees of units of local government to whom responsibility for
28 the implementation and enforcement of the riparian buffer protection rules is delegated
29 pursuant to G.S. 143-214.23; and Registered Foresters under Chapter 89B of the General
30 Statutes who are employees of the Division of Forest Resources of the Department as
31 determined by the Director of the Division of Forest Resources. The Director of the Division of
32 Water Quality may review the determinations made by individuals who are certified pursuant
33 to this section, may override a determination made by an individual certified under this section,
34 and, if the Director of the Division of Water Quality determines that an individual is failing to
35 make correct determinations, revoke the certification of that individual.

36 (b) The Division of Water Quality shall develop standard forms for use in making and
37 reporting determinations. Each individual who is certified to make determinations under this
38 section shall prepare a written report of each determination and shall submit the report to the
39 agency that employs the individual. Each agency shall maintain reports of determinations made
40 by its employees, shall forward a copy of each report to the Director of the Division of Water
41 Quality, and shall maintain these reports and all other records related to determinations so that
42 they will be readily accessible to the public."

43 **SECTION 4.(b)** In implementing the Surface Water Identification Training and
44 Certification Program established by G.S. 143-214.25A, as enacted by Section 4(a) of this act,
45 the Division of Water Quality of the Department of Environment and Natural Resources shall
46 give priority to training and certifying the most highly qualified and experienced personnel in
47 each agency. The Division of Water Quality shall evaluate the effectiveness of the Surface
48 Water Identification Training and Certification Program and shall submit an annual report of its
49 findings and recommendations, if any, to the Environmental Review Commission on or before
50 October 1 of each year. The Division of Water Quality shall submit the first report required by
51 this section on or before October 1, 2011.

1 (a) ~~Members; Selection; and Terms of Service. – The North Carolina National Park,~~
 2 ~~Parkway and Forests Development Council–Western North Carolina Public Lands Council~~
 3 within the Department of Environment and Natural Resources shall consist of seven members
 4 appointed by the Governor. The composition of the Council shall be as follows:

5 (1) ~~one~~ One member shall be a resident of Buncombe ~~County, County.~~

6 (2) ~~one~~ One member shall be a resident of Haywood ~~County, County.~~

7 (3) ~~one~~ One member shall be a resident of Jackson ~~County, County.~~

8 (4) ~~one~~ One member shall be a resident of Swain ~~County, County.~~

9 (5) One member shall be a resident of Cherokee County.

10 (6) ~~three~~ Two members shall be residents of counties adjacent to the Blue Ridge
 11 Parkway, the Great Smoky Mountains National Park or the Pisgah or
 12 Nantahala national forests.

13 The appointment of members shall be for terms of four years, or until their successors are
 14 appointed and qualify. Any appointment to fill a vacancy on the Council created by the
 15 resignation, dismissal, death or disability of a member shall be for the balance of the unexpired
 16 term.

17 (b) Officers. – The Council shall elect a ~~chairman, chair,~~ a ~~vice chairman~~ vice-chair, and
 18 a secretary. The ~~chairman and the vice chairman~~ chair and vice-chair shall all be members of
 19 the Council, but the secretary need not be a member of the Council. These officers shall
 20 perform the duties usually pertaining to such offices and when elected shall serve for a period
 21 of one year, but may be reelected. In case of vacancies by resignation or death, the office shall
 22 be filled by the Council for the unexpired term of said officer.

23 (c) Removal. – The Governor shall have the power to remove any member of the
 24 Council from office in accordance with the provisions of G.S. 143B-16 of the Executive
 25 Organization Act of 1973.

26 (d) Compensation. – Members of the Council shall receive per diem and necessary
 27 travel and subsistence expenses in accordance with the provisions of G.S. 138-5 and
 28 G.S. 143B-15 of the Executive Organization Act of 1973.

29 (e) Quorum. – Five members of the Council shall constitute a quorum for the
 30 transaction of business."

31 **SECTION 7.(d)** G.S. 143B-324.3 reads as rewritten:

32 "**§ 143B-324.3. ~~North Carolina National Park, Parkway and Forests Development~~**
 33 **~~Council–Western North Carolina Public Lands Council meetings.~~**

34 The ~~North Carolina National Park, Parkway and Forests Development Council–Western~~
 35 ~~North Carolina Public Lands Council~~ shall meet monthly and may hold special meetings at any
 36 time and place within the State at the call of the ~~chairman~~ chair or upon written request of at
 37 least a majority of the members."

38 **SECTION 7.(e)** G.S. 143B-432(a) reads as rewritten:

39 "(a) The Division of Economic Development of the Department of Natural and Economic
 40 Resources, the Science and Technology Committee of the Department of Natural and
 41 Economic Resources, the Science and Technology Research Center of the Department of
 42 Natural and Economic Resources, and the ~~North Carolina National Park, Parkway and Forests~~
 43 ~~Development Council~~ Western North Carolina Public Lands Council of the Department of
 44 Natural and Economic Resources are each hereby transferred to the Department of Commerce
 45 by a Type I transfer, as defined in G.S. 143A-6."

46 **SECTION 7.(f)** G.S. 143B-433 reads as rewritten:

47 "**§ 143B-433. Department of Commerce – organization.**

48 The Department of Commerce shall be organized to include:

49 (1) The following agencies:

50 ...

1 p. ~~North Carolina National Park, Parkway and Forests Development~~
2 ~~Council.~~Western North Carolina Public Lands Council.

3"

4 **SECTION 7.(g)** G.S. 153B-3(d) reads as rewritten:

5 "(d) Membership. – The Commission shall consist of 17 members as follows:

6 ...

7 (4) One member to represent the ~~North Carolina National Parks, Parkway and~~
8 ~~Forests Development Council.~~Western North Carolina Public Lands
9 Council.

10"

11 **SECTION 8.** G.S. 143-355.2(h1) reads as rewritten:

12 "(h1) A trade or professional organization representing commercial car washes may
13 establish a voluntary water conservation and water use efficiency certification program to
14 encourage and promote the use of year-round water conservation and water use efficiency
15 ~~measures-measures.~~ Implementation of a voluntary water conservation and water use efficiency
16 program shall be considered in determining compliance with local government water shortage
17 response plans as follows:

18 (1) A water conservation and water use efficiency certification may only be
19 issued to a person that demonstrates ~~that water use from its water-consuming~~
20 ~~processes is reduced by and maintained at twenty percent (20%) or more~~
21 ~~below the yearly average water use for the calendar year preceding~~
22 ~~application for certification.~~ full implementation of a voluntary water
23 conservation and water use efficiency program that is approved pursuant to
24 subdivision (3) of this subsection. In order to receive and maintain
25 certification, a person must have its facility inspected on an annual basis by a
26 licensed plumbing contractor who will confirm that the applicant is in
27 compliance with the standards of the certification program.

28 (2) A unit of local government that provides public water service or a large
29 community water system shall recognize and credit a commercial car wash
30 that has met the standards of a certification program for at least six months
31 prior to the most recent extreme drought designation for water conservation
32 achieved under the program. To the extent that a tiered response stage in the
33 water shortage response plan requires commercial or industrial users to
34 implement a percentage reduction in use, a car wash certified under a
35 program shall be credited with the percentage reduction achieved by
36 measures implemented under the program. Car washes certified under a
37 program shall not be required to reduce consumption more than any other
38 class of commercial or industrial water users during a water shortage
39 emergency.

40 (3) To qualify as an approved water conservation and water use efficiency
41 certification program, the Department of Environment and Natural
42 Resources shall determine that the program ~~effectively utilizes industry best~~
43 ~~management practices for the efficient use of water and achieves year-round~~
44 ~~reductions in water use-use and results in a reduction of twenty percent~~
45 (20%) or more in average water use per vehicle. Best management practices
46 may include, but are not limited to, recycling, reclaiming, or reusing a
47 portion of the water in the consuming processes. If a unit of local
48 government that provides public water service or a large community water
49 system determines that a person certified under such a program is not
50 complying with the terms and standards of the certification program, it may
51 refuse to recognize and credit the conservation measures."

1 **SECTION 9.** G.S. 143-355.6 reads as rewritten:

2 "**§ 143-355.6. Enforcement.**

3 (a) The Secretary may assess a civil penalty of not less than one hundred dollars
4 (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

5 (1) Fails to report water use or other information required under
6 G.S. 143-355(k).

7 (2) Fails to act in accordance with the terms, conditions, or requirements of an
8 order issued by the Secretary under G.S. 143-355.3.

9 (3) Violates any provision of this Article or any rule adopted by the
10 Commission, the Department, or the Secretary implementing this Article.

11 (b) For each willful action or failure to act for which a penalty may be assessed under
12 this section, the Secretary may consider each day the action or inaction continues after notice is
13 given of the violation as a separate violation. A separate penalty may be assessed for each
14 separate violation.

15 (c) The Secretary may assess a civil penalty of not more than ten thousand dollars
16 (\$10,000) per month against a unit of local government that provides public water service or a
17 large community water system that fails to implement the water conservation measures set out
18 in the water shortage response plan approved by the Department under G.S. 143-355.2,
19 measures required by the Department under subsections (b) and (d) of G.S. 143-355.2, or the
20 default measures required under rules adopted by the Commission under S.L. 2002-167. ~~The~~
21 ~~Secretary may remit a civil penalty based on the factors set out in G.S. 143B-282.1(e)(1).~~

22 (c1) The amount of the civil penalty shall be based on the factors set out in
23 G.S. 143B-282.1(b). The procedures set out in G.S. 143B-282.1 shall apply to civil penalty
24 assessments that are presented to the Commission for final agency decision.

25 (c2) Requests for remission of civil penalties shall be filed with the Secretary. Remission
26 requests shall not be considered unless made within 30 days of receipt of the notice of
27 assessment. Remission requests must be accompanied by a waiver of the right to a contested
28 case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on
29 which the assessment was based. Consistent with the limitations in G.S. 143B-282.1(c) and (d),
30 remission requests may be resolved by the Secretary and the violator. If the Secretary and the
31 violator are unable to resolve the request, the Secretary shall deliver remission requests and the
32 Secretary's recommended action to the Committee on Civil Penalty Remissions of the
33 Commission appointed pursuant to G.S. 143B-282.1(c).

34 (c3) If any civil penalty has not been paid within 30 days after the notice of assessment
35 has been served on the violator, the Secretary shall request the Attorney General to institute a
36 civil action in the superior court of any county in which the violator resides or in which the
37 violator's principal place of business is located to recover the amount of the assessment, unless
38 the violator contests the assessment as provided in subsection (e) of this section, or requests
39 remission of the assessment in whole or in part as provided in subsection (c2) of this section. If
40 any civil penalty has not been paid within 30 days after the final agency decision or court order
41 has been served on the violator, the Secretary shall request the Attorney General to institute a
42 civil action in the superior court of any county in which the violator resides or in which the
43 violator's principal place of business is located to recover the amount of the assessment.

44 (d) The violation of emergency water conservation rules adopted by the Secretary
45 pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

46 (e) The Secretary shall notify any person assessed a civil penalty of the assessment and
47 the specific reasons for the assessment by registered or certified mail or by any means
48 authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of
49 receipt of the notice of assessment.

50 (f) The clear proceeds of civil penalties assessed pursuant to this section shall be
51 remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2."

1 **SECTION 10.** G.S. 143B-299(a) reads as rewritten:
2 "(a) Creation; Membership. – There is hereby created in the Department of Environment
3 and Natural Resources the North Carolina Sedimentation Control Commission, which is
4 charged with the duty of developing and administering the sedimentation control program
5 provided for in this Article. The Commission shall consist of the following members:

- 6 (1) A person to be nominated jointly by the boards of the North Carolina League
7 of Municipalities and the North Carolina Association of County
8 ~~Commissioners;~~Commissioners.
9 (2) A person to be nominated by the Board of the North Carolina Home
10 Builders ~~Association;~~Association.
11 (3) A person to be nominated by the Carolinas Branch, Associated General
12 Contractors of ~~America;~~America.
13 (4) ~~The president, vice president, or general counsel~~A representative of a North
14 Carolina public utility ~~company;~~company.
15 (5) The Director of the North Carolina Water Resources Research
16 ~~Institute;~~Institute.
17 (6) A member of the State Mining Commission who shall be a representative of
18 nongovernmental conservation interests, as required by
19 ~~G.S. 74-38(b);~~G.S. 74-38(b).
20 (7) A member of the State Soil and Water Conservation
21 ~~Commission;~~Commission.
22 (8) A member of the Environmental Management ~~Commission;~~Commission.
23 (9) A soil scientist from the faculty of North Carolina State
24 ~~University;~~University.
25 (10) Two persons who shall be representatives of nongovernmental conservation
26 ~~interests;~~ and interests.
27 (11) A professional engineer registered under the provisions of Chapter 89C of
28 the General Statutes nominated by the Professional Engineers of North
29 Carolina, Inc."

30 **SECTION 11.(a)** G.S. 153A-102.1 reads as rewritten:
31 **"§ 153A-102.1. ~~Electronic notice~~Notice of new fees and fee increases; public comment**
32 **period.**

33 (a) ~~If a county has a Web site maintained by one or more of its employees, the~~A county
34 shall provide notice to interested parties of the imposition of or increase in fees or charges
35 applicable solely to the construction of development subject to the provisions of Part 2 of
36 Article 18 of this Chapter ~~on the county's Web site~~ at least seven days prior to the first meeting
37 where the imposition of or increase in the fees or charges is on the agenda for consideration.
38 The county shall employ at least two of the following means of communication in order to
39 provide the notice required by this section:

- 40 (1) Notice of the meeting in a prominent location on a Web site managed or
41 maintained by the county.
42 (2) Notice of the meeting in a prominent physical location, including, but not
43 limited to, any government building, library, or courthouse within the
44 county.
45 (3) Notice of the meeting by electronic mail to a list of interested parties that is
46 created by the county for the purpose of notification as required by this
47 section.
48 (4) Notice of the meeting by facsimile to a list of interested parties that is
49 created by the county for the purpose of notification as required by this
50 section.

1 (a1) If a county manages or maintains a Web site, it may provide the notice required
2 pursuant to G.S. 160A-4.1, 130A-64.1, or 162A-9 on its Web site at the request of a city,
3 sanitary district, or water and sewer authority that does not manage or maintain a Web site of
4 its own. Any county that elects to provide such notice shall post the notice to its Web site
5 within seven days of the request made by the city, sanitary district, or water and sewer
6 authority.

7 (b) During the consideration of the imposition of or increase in fees or charges as
8 provided in subsection (a) of this section, the governing body of the county shall permit a
9 period of public comment.

10 (c) This section shall not apply if the imposition of or increase in fees or charges is
11 contained in a budget filed in accordance with the requirements of G.S. 159-12."

12 **SECTION 11.(b)** G.S. 160A-4.1 reads as rewritten:

13 "**§ 160A-4.1. ~~Electronic notice~~ Notice of new fees and fee increases; public comment**
14 **period.**

15 (a) ~~If a city has a Web site maintained by one or more of its employees, the~~A city shall
16 provide notice to interested parties of the imposition of or increase in fees or charges applicable
17 solely to the construction of development subject to the provisions of Part 2 of Article 19 of
18 this Chapter ~~on the city's Web site~~ at least seven days prior to the first meeting where the
19 imposition of or increase in the fees or charges is on the agenda for consideration. The city
20 shall employ at least two of the following means of communication in order to provide the
21 notice required by this section:

22 (1) Notice of the meeting in a prominent location on a Web site managed or
23 maintained by the city.

24 (2) Notice of the meeting in a prominent physical location, including, but not
25 limited to, any government building, library, or courthouse within the city.

26 (3) Notice of the meeting by electronic mail to a list of interested parties that is
27 created by the city for the purpose of notification as required by this section.

28 (4) Notice of the meeting by facsimile to a list of interested parties that is
29 created by the city for the purpose of notification as required by this section.

30 (a1) If a city does not maintain its own Web site, it may employ the notice option
31 provided by subdivision (1) of subsection (a) of this section by submitting a request to a county
32 or counties in which the city is located to post such notice in a prominent location on a Web
33 site that is maintained by the county or counties. Any city that elects to provide such notice
34 shall make its request to the county or counties at least 15 days prior to the date of the first
35 meeting where the imposition of or increase in the fees or charges is on the agenda for
36 consideration.

37 (b) During the consideration of the imposition of or increase in fees or charges as
38 provided in subsection (a) of this section, the governing body of the city shall permit a period
39 of public comment.

40 (c) This section shall not apply if the imposition of or increase in fees or charges is
41 contained in a budget filed in accordance with the requirements of G.S. 159-12."

42 **SECTION 11.(c)** G.S. 130A-64.1 reads as rewritten:

43 "**§ 130A-64.1. ~~Electronic notice~~ Notice of new or increased charges and rates; public**
44 **comment period.**

45 (a) ~~If a sanitary district has a Web site maintained by one or more of its employees,~~
46 ~~the~~A sanitary district shall provide notice to interested parties of the imposition of or increase
47 in service charges or rates applicable solely to the construction of development subject to Part 2
48 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter 153A of the General Statutes
49 for any service provided by the sanitary district on the sanitary district's Web site at least seven
50 days prior to the first meeting where the imposition of or increase in the charges or rates is on

1 the agenda for consideration. The sanitary district shall employ at least two of the following
2 means of communication in order to provide the notice required by this section:

- 3 (1) Notice of the meeting in a prominent location on a Web site managed or
4 maintained by the sanitary district.
- 5 (2) Notice of the meeting in a prominent physical location, including, but not
6 limited to, the district's headquarters or any government building, library, or
7 courthouse located within the sanitary district.
- 8 (3) Notice of the meeting by electronic mail to a list of interested parties that is
9 created by the sanitary district for the purpose of notification as required by
10 this section.
- 11 (4) Notice of the meeting by facsimile to a list of interested parties that is
12 created by the sanitary district for the purpose of notification as required by
13 this section.

14 (a1) If a sanitary district does not maintain its own Web site, it may employ the notice
15 option provided by subdivision (1) of subsection (a) of this section by submitting a request to a
16 county or counties in which the district is located to post such notice in a prominent location on
17 a Web site that is maintained by the county or counties. Any sanitary district that elects to
18 provide such notice shall make its request to the county or counties at least 15 days prior to the
19 date of the first meeting where the imposition of or increase in the fees or charges is on the
20 agenda for consideration.

21 (b) During the consideration of the imposition of or increase in service charges or rates
22 as provided in subsection (a) of this section, the governing body of the sanitary district shall
23 permit a period of public comment.

24 (c) This section shall not apply if the imposition of or increase in service charges or
25 rates is contained in a budget filed in accordance with the requirements of G.S. 159-12."

26 **SECTION 11.(d)** G.S. 162A-9 reads as rewritten:

27 **"§ 162A-9. Rates and charges; ~~electronic notice~~; contracts for water or services; deposits;**
28 **delinquent charges.**

29 (a) An authority may establish and revise a schedule of rates, fees, and other charges for
30 the use of and for the services furnished or to be furnished by any water system or sewer
31 system or parts thereof owned or operated by the authority. The rates, fees, and charges
32 established under this subsection are not subject to supervision or regulation by any bureau,
33 board, commission, or other agency of the State or of any political subdivision.

34 Before an authority sets or revises rates, fees, or other charges for stormwater management
35 programs and structural or natural stormwater and drainage system service, the authority shall
36 hold a public hearing on the matter. At least seven days before the hearing, the authority shall
37 publish notice of the public hearing in a newspaper having general circulation in the area. An
38 authority may impose rates, fees, or other charges for stormwater management programs and
39 stormwater and drainage system service on a person even though the person has not entered
40 into a contract to receive the service.

41 Rates, fees, and charges shall be fixed and revised so that the revenues of the authority,
42 together with any other available funds, will be sufficient at all times:

- 43 (1) To pay the cost of maintaining, repairing, and operating the systems or parts
44 thereof owned or operated by the authority, including reserves for such
45 purposes, and including provision for the payment of principal of and
46 interest on indebtedness of a political subdivision or of political subdivisions
47 which payment shall have been assumed by the authority, and
- 48 (2) To pay the principal of and the interest on all bonds issued by the authority
49 under the provisions of this Article as the same shall become due and
50 payable and to provide reserves therefor.

1 The fees established under this subsection must be made applicable throughout the service
2 area. Schedules of rates, fees, charges, and penalties for providing stormwater management
3 programs and structural and natural stormwater and drainage system service may vary
4 according to whether the property served is residential, commercial, or industrial property, the
5 property's use, the size of the property, the area of impervious surfaces on the property, the
6 quantity and quality of the runoff from the property, the characteristics of the watershed into
7 which stormwater from the property drains, and other factors that affect the stormwater
8 drainage system. Rates, fees, and charges imposed under this subsection for stormwater
9 management programs and stormwater and drainage system service may not exceed the
10 authority's cost of providing a stormwater management program and a structural and natural
11 stormwater and drainage system. The authority's cost of providing a stormwater management
12 program and a structural and natural stormwater and drainage system includes any costs
13 necessary to assure that all aspects of stormwater quality and quantity are managed in
14 accordance with federal and State laws, regulations, and rules.

15 No stormwater utility fee may be levied under this subsection whenever two or more units
16 of local government operate separate stormwater management programs or separate structural
17 and natural stormwater and drainage system services in the same area within a county.
18 However, two or more units of local government may allocate among themselves the functions,
19 duties, powers, and responsibilities for jointly operating a stormwater management program
20 and structural and natural stormwater and drainage system service in the same area within a
21 county, provided that only one unit may levy a fee for the service within the joint service area.
22 For purposes of this subsection, a unit of local government shall include a regional authority
23 providing stormwater management programs and structural and natural stormwater and
24 drainage system services.

25 (a1) ~~If an authority has a Web site maintained by one or more of its employees, the An~~
26 authority shall provide notice to interested parties of the imposition of or increase in rates, fees,
27 and charges under subsection (a) of this section applicable solely to the construction of
28 development subject to Part 2 of Article 19 of Chapter 160A or Part 2 of Article 18 of Chapter
29 153A of the General Statutes on the authority's Web site at least seven days prior to the first
30 meeting where the imposition of or increase in the rates, fees, and charges is on the agenda for
31 consideration. The authority shall employ at least two of the following means of
32 communication in order to provide the notice required by this subsection:

- 33 (1) Notice of the meeting in a prominent location on a Web site managed or
34 maintained by the authority.
- 35 (2) Notice of the meeting in a prominent physical location, including, but not
36 limited to, the authority's headquarters or any government building, library,
37 or courthouse located within the authority's service area.
- 38 (3) Notice of the meeting by electronic mail to a list of interested parties that is
39 created by the authority for the purpose of notification as required by this
40 section.
- 41 (4) Notice of the meeting by facsimile to a list of interested parties that is
42 created by the authority for the purpose of notification as required by this
43 section.

44 (a2) If an authority does not maintain its own Web site, it may employ the notice option
45 provided by subdivision (1) of subsection (a1) of this section by submitting a request to a
46 county or counties in which the authority is located to post such notice in a prominent location
47 on a Web site that is maintained by the county or counties. Any authority that elects to provide
48 such notice shall make its request to the county or counties at least 15 days prior to the date of
49 the first meeting where the imposition of or increase in the fees or charges is on the agenda for
50 consideration.

1 (a3) During the consideration of the imposition of or increase in rates, fees, or charges
2 under this subsection, the authority shall permit a period of public comment.

3 (a4) ~~This subsection~~ The notice requirements in subsection (a1) of this section shall not
4 apply if the imposition of or increase in rates, fees, and charges is contained in a budget filed in
5 accordance with the requirements of G.S. 159-12.

6 (b) Notwithstanding any of the foregoing provisions of this section, the authority may
7 enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or
8 sale of water which shall not be subject to revision except in accordance with their terms.

9 (c) In order to insure the payment of such rates, fees and charges as the same shall
10 become due and payable, the authority may do the following in addition to exercising any other
11 remedies which it may have:

- 12 (1) Require reasonable advance deposits to be made with it to be subject to
13 application to the payment of delinquent rates, fees and charges.
- 14 (2) At the expiration of 30 days after any rates, fees and charges become
15 delinquent, discontinue supplying water or the services and facilities of any
16 water system or sewer system of the authority.
- 17 (3) Specify the order in which partial payments are to be applied when a bill
18 covers more than one service."

19 **SECTION 12.** Section 4 of S.L. 2005-190, as amended by Section 31 of S.L.
20 2006-259, reads as rewritten:

21 "**SECTION 4. Other drinking water supply reservoirs.** – The Environmental
22 Management Commission shall not make any new or increased nutrient loading allocation to
23 any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater
24 discharge directly or indirectly into any impaired drinking water supply reservoir for which the
25 Division of Water Quality of the Department of Environment and Natural Resources has
26 prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent
27 rules adopted by the Commission to implement the nutrient management strategy for that
28 reservoir become effective. The Commission shall report its progress in developing and
29 implementing nutrient management strategies for reservoirs to which this section applies to the
30 Environmental Review Commission by 1 April of each year beginning 1 April 2006."

31 **SECTION 13.(a)** The Wood and Crop Biomass Strategic Working Group is
32 established. The Working Group shall identify, study, and recommend a comprehensive
33 package of appropriate and targeted policies and financial incentives in order to do all of the
34 following:

- 35 (1) Ensure a reliable supply of sustainably managed wood and crop biomass for
36 energy purposes and other sectors.
- 37 (2) Develop economic opportunities for rural communities.
- 38 (3) Enhance natural resources and promote farm and forestland retention.
- 39 (4) Integrate wood and crop biomass into the State's comprehensive energy plan,
40 as recommended by the Energy Policy Council.

41 **SECTION 13.(b)** The Wood and Crop Biomass Strategic Working Group shall be
42 convened jointly by the Biofuels Center of North Carolina, the Department of Commerce, the
43 Department of Environment and Natural Resources, and the North Carolina Solar Center at
44 North Carolina State University. The Working Group shall consist of 18 members as follows:

- 45 (1) The President of the Biofuels Center of North Carolina or the President's
46 designee.
- 47 (2) The Secretary of Commerce or the Secretary's designee.
- 48 (3) The Secretary of Environment and Natural Resources or the Secretary's
49 designee.
- 50 (4) The Executive Director of the North Carolina Solar Center at North Carolina
51 State University or the Executive Director's designee.

- 1 (5) The Commissioner of Agriculture or the Commissioner's designee.
- 2 (6) The President of the North Carolina Biotechnology Center or the President's
- 3 designee.
- 4 (7) The President of Duke Energy NC or the President's designee.
- 5 (8) The President of Progress Energy Carolinas or the President's designee.
- 6 (9) The Director of the Southeast Office of Environmental Defense or the
- 7 Director's designee.
- 8 (10) The President of the North Carolina Farm Bureau Federation or the
- 9 President's designee.
- 10 (10a) One member who is a farmer, to be appointed by the President of the North
- 11 Carolina Farm Bureau Federation.
- 12 (11) The President of the North Carolina Forestry Association or the President's
- 13 designee.
- 14 (11a) One member who is a forest landowner, to be appointed by the President of
- 15 the North Carolina Forestry Association.
- 16 (12) The Director of the North Carolina Division of Forest Resources of the
- 17 Department of Environment and Natural Resources or the Director's
- 18 designee.
- 19 (13) The Executive Director of the North Carolina Chapter of The Nature
- 20 Conservancy or the Executive Director's designee.
- 21 (14) The President of Novozymes North America or the President's designee.
- 22 (15) The Executive Director of the North Carolina Sustainable Energy
- 23 Association or the Executive Director's designee.
- 24 (16) The Executive Director of the North Carolina Conservation Network or the
- 25 Executive Director's designee.

26 **SECTION 13.(c)** The Wood and Crop Biomass Strategic Working Group shall
27 meet monthly or upon the call of the conveners beginning no later than August 1, 2010.
28 Members of the Working Group shall not receive a salary. Members of the Working Group
29 shall not receive per diem and travel expenses for their service on the Working Group. Staff
30 and administrative assistance to the Working Group shall be provided by the Biofuels Center of
31 North Carolina. The authority granted to the Working Group shall be advisory in nature, and in
32 no way shall the Working Group be construed to have any regulatory authority.

33 **SECTION 13.(d)** The Wood and Crop Biomass Strategic Working Group shall
34 submit an interim report of its findings and recommendations to the Environmental Review
35 Commission, the Senate and the House of Representatives Appropriations Subcommittees on
36 Natural and Economic Resources, and the Energy Policy Council no later than February 1,
37 2011. A final report containing findings, recommendations, and any legislative proposals shall
38 be submitted by the Working Group no later than May 1, 2011.

39 **SECTION 14.(a)** The Department of Administration, the Department of
40 Agriculture and Consumer Services, the Department of Commerce, the Department of Crime
41 Control and Public Safety, the Department of Environment and Natural Resources, the
42 Department of Health and Human Services, the Department of Insurance, and the Department
43 of Transportation shall:

- 44 (1) Review their respective planning and regulatory programs to determine
- 45 whether the programs currently consider the impacts of global climate
- 46 change, including adaptation and sea level rise.
- 47 (2) For those programs that currently consider the impacts of global climate
- 48 change, the agency shall describe how the program considers the impacts of
- 49 global climate change, including adaptation and sea level rise, and
- 50 recommend whether the consideration of the impacts of global climate
- 51 change should be modified or expanded.

- 1 (3) For those programs that do not currently consider the impacts of global
2 climate change, the agency shall recommend if and how the program should
3 consider the impacts of global climate change, including adaptation and sea
4 level rise.

5 **SECTION 14.(b)** No later than September 1, 2011, each State agency shall report
6 the results of its review and any recommendations to the Department of Environment and
7 Natural Resources. The Department shall compile the results and recommendations and report
8 them to the Environmental Review Commission and to any future legislative commission that
9 directly and primarily addresses issues concerning global climate change no later than
10 November 1, 2011.

11 **SECTION 15.(a)** Article 9 of Chapter 130A of the General Statutes is amended by
12 adding a new Part to read:

13 "Part 7. Management of Certain Products That Contain Mercury.

14 **"§ 130A-310.60. Recycling required by public agencies.**

15 (a) Each State agency, including the General Assembly, the General Court of Justice,
16 universities, community colleges, public schools, and political subdivisions using State funds
17 for the construction or operation of public buildings shall establish a program in cooperation
18 with the Department of Environment and Natural Resources and the Department of
19 Administration for the collection and recycling of all spent fluorescent lights and thermostats
20 that contain mercury generated in public buildings owned by each respective entity. The
21 program shall include procedures for convenient collection, safe storage, and proper recycling
22 of spent fluorescent lights and thermostats that contain mercury and contractual or other
23 arrangements with buyers of the recyclable materials.

24 (b) Each State agency, including the General Assembly, the General Court of Justice,
25 universities, community colleges, the Department of Public Instruction on behalf of the public
26 schools, and political subdivisions shall submit a report on or before December 1, 2011, that
27 documents the entity's compliance with the requirements of subsection (a) of this section to the
28 Department of Environment and Natural Resources and the Department of Administration. The
29 Departments shall compile the information submitted and jointly shall submit a report to the
30 Environmental Review Commission on or before January 15, 2012, concerning the activities
31 required by subsection (a) of this section. The information provided shall also be included in
32 the report required by G.S. 130A-309.06(c).

33 **"§ 130A-310.61. Removal and recycling of mercury-containing products from structures**
34 **to be demolished.**

35 Prior to demolition of any building or structure in the State, the contractor responsible for
36 the demolition activity or the owner of the building or structure to be demolished shall remove
37 all fluorescent lights and thermostats that contain mercury from the building or structure to be
38 demolished."

39 **SECTION 15.(b)** G.S. 130A-309.10 is amended by adding a new subsection to
40 read:

41 "(m) No person shall knowingly dispose of fluorescent lights and thermostats that contain
42 mercury in a sanitary landfill for the disposal of construction and demolition debris waste that
43 is unlined or in any other landfill that is unlined."

44 **SECTION 15.(c)** G.S. 130A-22 reads as rewritten:

45 **"§ 130A-22. Administrative penalties.**

46 (a) The Secretary of Environment and Natural Resources may impose an administrative
47 penalty on a person who violates Article 9 of this Chapter, rules adopted by the Commission
48 pursuant to Article 9, or any term or condition of a permit or order issued under Article 9. Each
49 day of a continuing violation shall constitute a separate violation. The penalty shall not exceed
50 fifteen thousand dollars (\$15,000) per day in the case of a violation involving nonhazardous
51 waste. The penalty shall not exceed thirty-two thousand five hundred dollars (\$32,500) per day

1 in the case of a first violation involving hazardous waste as defined in G.S. 130A-290 or
2 involving the disposal of medical waste as defined in G.S. 130A-290 in or upon water in a
3 manner that results in medical waste entering waters or lands of the State; and shall not exceed
4 fifty thousand dollars (\$50,000) per day for a second or further violation involving the disposal
5 of medical waste as defined in G.S. 130A-290 in or upon water in a manner that results in
6 medical waste entering waters or lands of the State. The penalty shall not exceed thirty-two
7 thousand five hundred dollars (\$32,500) per day for a violation involving a voluntary remedial
8 action implemented pursuant to G.S. 130A-310.9(c) or a violation of the rules adopted pursuant
9 to G.S. 130A-310.12(b). The penalty shall not exceed one hundred dollars (\$100.00) for a first
10 violation; two hundred dollars (\$200.00) for a second violation within any 12-month period;
11 and five hundred dollars (\$500.00) for each additional violation within any 12-month period for
12 any violation of Part 2G of Article 9 of this Chapter. For violations of Part 7 of Article 9 of this
13 Chapter and G.S. 130A-309.10(m): (i) a warning shall be issued for a first violation; (ii) the
14 penalty shall not exceed two hundred dollars (\$200.00) for a second violation; and (iii) the
15 penalty shall not exceed five hundred dollars (\$500.00) for subsequent violations. If a person
16 fails to pay a civil penalty within 60 days after the final agency decision or court order has been
17 served on the violator, the Secretary of Environment and Natural Resources shall request the
18 Attorney General to institute a civil action in the superior court of any county in which the
19 violator resides or has his or its principal place of business to recover the amount of the
20 assessment. Such civil actions must be filed within three years of the date the final agency
21 decision or court order was served on the violator."

22 **SECTION 15.(d)** G.S. 130A-25 reads as rewritten:

23 "**§ 130A-25. Misdemeanor.**

24 (a) ~~A~~ Except as otherwise provided, a person who violates a provision of this Chapter
25 or the rules adopted by the Commission or a local board of health shall be guilty of a
26 misdemeanor.

27 ...

28 (d) A violation of Part 7 of Article 9 of this Chapter or G.S. 130A-309.10(m) shall be
29 punishable as a Class 3 misdemeanor."

30 **SECTION 16.** The Environmental Review Commission may study the penalties
31 applicable to violations of G.S. 130A-309.10 (Prohibited acts related to packaging; coded
32 labeling of plastic containers required; disposal of certain solid wastes in landfills or by
33 incineration prohibited), and report its findings, together with any recommended legislation, to
34 the 2011 Regular Session of the 2011 General Assembly upon its convening.

35 **SECTION 17.** G.S. 143-355.4(a) reads as rewritten:

36 "(a) Local government water systems and large community water systems shall require
37 separate meters for new in-ground irrigation systems on lots platted and recorded in the office
38 of the register of deeds in the county or counties in which the real property is located after July
39 1, 2009, that are connected to their systems."

40 **SECTION 18.(a)** The General Assembly finds and declares that inorganic arsenic
41 is a hazardous substance and is recognized by the United States Environmental Protection
42 Agency and the United States Occupational Safety and Health Administration as a human
43 carcinogen; that release of this substance into the environment may lead to contamination of
44 soil and water; that the ingestion or inhalation of soil, water, plant material, or animal tissues
45 contaminated with inorganic arsenic may lead to lung cancer, damage to the nervous system,
46 or, in extreme cases, death from systemic poisoning; that reflective glass beads are used to
47 reflect light when applied to roadway markers; that glass beads that contain more than 75 parts
48 per million inorganic arsenic may represent a danger to workers who handle and apply them
49 and a contamination potential to soil and water surrounding roadways. The General Assembly
50 therefore determines that it is in the public interest to prohibit the use of glass beads containing

1 more than 75 parts per million inorganic arsenic used to reflect light when applied to markings
2 on roadways.

3 **SECTION 18.(b)** Chapter 136 of the General Statutes is amended by adding a new
4 section to read:

5 "**§ 136-30.2. Prohibit the use of high content arsenic glass beads in paint used for**
6 **pavement marking.**

7 No pavement markings shall be placed on or along any road in the State highway system, in
8 any municipal street system, or on any public vehicular area, as defined in G.S. 20-4.01, that is
9 made from paint that has been mixed, in whole or in part, with reflective glass beads containing
10 more than 75 parts per million inorganic arsenic, as determined by the United States
11 Environmental Protection Agency Method 6010B in conjunction with the United States
12 Environmental Protection Agency Method 3052 modified."

13 **SECTION 19.** G.S. 130A-250 is amended by adding a new subdivision to read:

14 "(13) Traditional country stores that sell uncooked sandwiches or similar food
15 items and that engage in minimal preparation such as slicing bananas,
16 spreading peanut butter, mixing and spreading pimiento cheese, and
17 assembling these items into sandwiches, when this minimal preparation is
18 the only activity that would otherwise subject these establishments to
19 regulation under this Part. For the purposes of this subsection, traditional
20 country stores means for-profit establishments that sell an assortment of
21 goods, including prepackaged foods and beverages, and have been in
22 continuous operation for at least 75 years."

23 **SECTION 20.(a)** Notwithstanding the provisions of 15A NCAC 10B.0106(d)(5) or
24 any other provision of law, there is established an experimental program in which the City of
25 Greensboro may relocate beavers that have been taken alive under a depredation permit along
26 Buffalo Creek to a suitable alternative habitat along Buffalo Creek with the consent of the
27 landowner of that new habitat.

28 **SECTION 20.(b)** Section 20(a) of this act applies only to depredation permits
29 issued to the City of Greensboro.

30 **SECTION 21.** Section 6 of this act becomes effective October 1, 2010, and applies
31 to violations that occur on or after that date. Section 9 of this act becomes effective October 1,
32 2010, and applies to penalties assessed on or after that date. Sections 11(a), 11(b), 11(c), and
33 11(d) of this act become effective February 1, 2011. Sections 15(a), 15(b), 15(c), and 15(d) of
34 this act become effective July 1, 2011. Sections 18(a) and 18(b) become effective October 1,
35 2010, and apply to any contracts for road projects entered into, or any pavement remarking that
36 takes place, on or after that date. Sections 20(a) and 20(b) of this act are effective when the act
37 becomes law and expire July 1, 2011. All other sections of this act are effective when this act
38 becomes law.