

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 518

Short Title: Establish PFAS Task Force/Add'l Measures. (Public)

Sponsors: Senators Peterson, deViere, and McKissick (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2019

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE "PFAS TASK FORCE" TO IDENTIFY AND ANALYZE ALL PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) IN THE LOWER CAPE FEAR RIVER BASIN; TO IDENTIFY THEIR SOURCE OF DISCHARGE AND THEIR HEALTH IMPACT ON THE HUMAN POPULATION THEREIN; TO ESTABLISH ALLOWABLE MAXIMUM HEALTH STANDARDS FOR EXPOSURE TO PFAS; AND TO PROVIDE FOR THE IMMEDIATE REPLACEMENT AND/OR UPGRADE OF DRINKING WATER SYSTEMS, INCLUDING PRIVATE WELLS, WITHIN THE AFFECTED AREA.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The Department of Environmental Quality shall establish the PFAS Task Force. The Task Force shall:

(a) Undertake a comprehensive, non-targeted, scientific identification and analysis of all per- and polyfluoroalkyl substances (PFAS), including GenX compounds, and other chemical contaminants of emerging interest, including 1,4-Dioxane, found in ground and surface waters, private wells, air, soil, dust, food, and locally produced garden and farm products within the Lower Cape Fear River Basin, including the counties of Cumberland, Bladen, Columbus, Brunswick, and New Hanover and the streams and tributaries contained therein. In examining these media and other elements for PFAS contamination, and contamination from other chemical contaminants of emerging interest, including 1,4-Dioxane, the Task Force shall give particular emphasis to analysis of public water systems within the area subject to PFAS exposure, including testing of water at intakes, outflows, sediment in tanks and lines, and at residential and commercial taps. In conducting this research, the Task Force shall also study the environmental pathways PFAS travel to reach human tissue, including wastewater discharges, air emissions, and other means; and any laboratory studies and science associated with the precursors of these contaminants and their genesis.

(b) Identify all public and private parties responsible for the discharge or emissions of such contaminants.

(c) Develop and implement a Biomonitoring Study Program, in consultation with the Department of Health and Human Services, to identify and measure concentrations of toxic chemicals in the population groups within the study area exposed to PFAS chemicals to establish foundational baseline data to support future epidemiological and public health studies and to assess the effectiveness of public health efforts and regulatory programs to decrease exposure to specific toxic chemicals. The Program shall give thorough consideration to epidemiological research completed and in process at academic institutions within the State as well as the Centers for Disease Control and Prevention.



1 (d) Draw on all previous and current academic studies and findings related to per- and
2 polyfluoroalkyl substances (PFAS), including GenX compounds, and other chemical
3 contaminants of emerging interest, including 1,4-Dioxane, including research performed
4 pursuant to Section 13.1 of S.L. 2018-5 by the North Carolina Policy Collaboratory at the
5 University of North Carolina at Chapel Hill (Collaboratory); independent research by academic
6 institutions, including the Universities of North Carolina at Wilmington (UNCW) and Chapel
7 Hill (UNC-CH), North Carolina State University, North Carolina A&T State University, Duke
8 University, Cape Fear Public Utility Authority (CFPUA), and other public and private
9 institutions; and international testing and findings.

10 The Task Force shall consult and coordinate with these other research entities in order to
11 minimize redundancy of efforts and unnecessary expenditure of public funds.

12 (e) Review and update: (i) the National Pollutant Discharge Elimination System
13 (NPDES) permitting requirements and (ii) the appropriateness of the amount of sanctions and
14 remedies that may be assessed under State law for noncompliance with State environmental
15 requirements.

16 (f) Encourage the administrators of the United States Environmental Protection Agency
17 (USEPA) to accelerate evaluation of emerging contaminants and development of enforceable
18 standards therefor under the federal Toxic Substances Control Act (TSCA).

19 (g) Based upon research conducted pursuant to this study, the Task Force shall formulate
20 a maximum allowable standard for all PFAS, including GenX compounds, and other chemical
21 contaminants of emerging interest, including 1,4-Dioxane, the Task Force identifies through the
22 course of its work. These recommended standards should be based on the body of scientific
23 research available, including lab studies; "in vivo" and "in vitro" assessments; biomonitoring;
24 and scientific research and findings generated by academic institutions, other states, and
25 countries. If no research or guidelines are available for a given contaminant, the Task Force shall
26 recommend adoption of a "precautionary" standard of 10 ppt for the contaminant that should be
27 applied until such time when a science-based test method has been developed to allow standards
28 to be established that will protect human health.

29 **SECTION 1.(b)** The Task Force shall serve as a pilot program for establishment of
30 future statewide initiatives to aggressively examine and resolve public health concerns as a result
31 of the discharge of illegal toxic contaminants into the public realm.

32 **SECTION 1.(c)** The Task Force shall complete the work identified under subsection
33 (a) of this section no later than December 31, 2020. Until such time, the Task Force shall submit
34 quarterly reports to the Environmental Review Commission (ERC), beginning no later than July
35 1, 2019, with recommendations for legislative action, and information on required staffing,
36 equipment, and instrumentation for the conduct of the Task Force's work, and appropriations
37 necessary therefore. The Department of Environmental Quality shall collaborate with and take
38 recommendations from the ERC to determine membership and structure for the Task Force and
39 determine and recommend the necessary appropriation for the Task Force to complete its work.

40 **REPEAL HARDISON AMENDMENT**

41 **SECTION 2.(a)** G.S. 150B-19.3 is repealed.

42 **SECTION 2.(b)** G.S. 130A-309.207 reads as rewritten:

43 **"§ 130A-309.207. General rule making for Part.**

44 The Environmental Management Commission shall adopt rules as necessary to implement
45 the provisions of the Part. ~~Such rules shall be exempt from the requirements of G.S. 150B-19.3."~~

46 **SECTION 2.(c)** G.S. 130A-309.226 reads as rewritten:

47 **"§ 130A-309.226. Amendments required to rules.**

48 Requirements under existing rules governing the use of coal combustion products for
49 structural fill that do not conflict with the provisions of this Subpart shall continue to apply to
50 such projects. The Environmental Management Commission shall amend existing rules
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1 governing the use of coal combustion products for structural fill as necessary to implement the
2 provisions of this Subpart. ~~Such rules shall be exempt from the requirements of G.S. 150B-19.3."~~

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4 **AMEND 2018 REQUIREMENT FOR PROVISION OF ALTERNATE WATER**
5 **SUPPLIES TO PARTIES AFFECTED BY PFAS CONTAMINATION, INCLUDING**
6 **GENX**

7 **SECTION 3.(a)** G.S. 143-215.2A reads as rewritten:

8 "**§ 143-215.2A. Relief for contaminated private or public water supplies, including private**
9 **drinking water wells.**

10 (a) The Secretary shall, upon direction of the Governor, order any person who the
11 Secretary finds responsible for the discharge or release of industrial waste that includes per- and
12 poly-fluoroalkyl substances (PFAS), including the chemical known as "GenX" (CAS registry
13 number 62037-80-3 or 13252-13-6), into the air, groundwater, surface water, or onto the land
14 that results in contamination of a public or private water supply, including a private drinking
15 water well, as that term is defined in G.S. 87-85, to establish permanent replacement water
16 supplies for affected parties. For purposes of this section, the terms (i) "contamination" means an
17 exceedance of a standard established by the Environmental Management Commission for
18 groundwater, surface water, or air quality, or an exceedance of a health advisory level established
19 by the United States Environmental Protection Agency, of 10 ppt for a single PFAS compound,
20 and a cumulative threshold of 25 ppt where three or more PFAS compounds are detected for any
21 chemical classified as a PFAS, including GenX; and (ii) "affected party" means a household,
22 business, school, or public building with a well served by a public or private water supply,
23 including a private drinking water well, contaminated with PFAS, including GenX, as a result of
24 the discharge or release of industrial waste.

25 (b) If the Secretary orders a person responsible for the discharge or release of a PFAS,
26 including GenX, that results in contamination of a ~~private drinking water well~~ public or private
27 water supply, including a private drinking water well, to establish a permanent replacement water
28 supply for an affected party with such a well pursuant to subsection (a) of this section, preference
29 shall be given to permanent replacement water supplies by connection to public water supplies;
30 provided that (i) an affected party may elect to receive a filtration system in lieu of a connection
31 to public water supplies and (ii) if the Department determines that connection to a public water
32 supply to a particular affected party would not be cost effective, the Department shall authorize
33 require provision of a permanent replacement water supply to that affected party through
34 installation of a filtration system. system or connection to a public water system. For affected
35 parties for which filtration systems are installed, the person responsible shall be liable for any
36 periodic required maintenance of the filtration system. An order issued by the Secretary pursuant
37 to subsection (a) of this section shall include a deadline by which the responsible person must
38 establish the permanent replacement water supply for the affected party or parties subject to the
39 order.

40 (c) An order issued by the Secretary pursuant to subsection (a) of this section shall be
41 delivered by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4, to the
42 person ordered to establish the permanent replacement water supply and shall include detailed
43 findings of fact and conclusions in support of the order. A person to whom such order is issued
44 may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after
45 receipt of notice of the order. If the person does not file a petition within the required time, the
46 Secretary's decision is final and is not subject to review.

47 (d) A person required to establish a permanent replacement water supply pursuant to this
48 section shall be jointly and severally liable for all necessary costs associated with establishment
49 of the permanent replacement water supply. The remedy under this section is in addition to those
50 provided by existing statutory and common law. Nothing in this section shall limit or diminish
51 any rights of contribution for costs incurred herein.

1 (e) Nothing in this section shall be construed to (i) require an eligible affected party to
2 connect to a public water supply or receive a filtration system or (ii) obviate the need for other
3 federal, State, and local permits and approvals.

4 (f) All State entities and local governments shall expedite any permits and approvals that
5 may be required for the establishment of permanent replacement water supplies required pursuant
6 to this section."

7 **SECTION 4.(a)** Notwithstanding the requirements of G.S. 143-215.2A, the
8 Department, with the assistance of the Cape Fear Public Utility Authority and other regional
9 utility providers, shall identify all affected parties, as that term is defined under G.S. 143-215.2A.

10 **SECTION 4.(b)** The State Controller shall transfer from the Savings Reserve
11 Account to the General Fund the sum of two hundred seventy million dollars (\$270,000,000) for
12 the 2019-2020 fiscal year to execute agreements with appropriate contractors for the immediate
13 installation of filtration systems for all affected parties identified pursuant to subsection (a) of
14 this section. The Department shall seek cost recovery from the party or parties responsible for all
15 funds expended pursuant to this section, which, once recovered, shall revert to the General Fund.

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