

# ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY  
AMENDMENT  
Senate Bill 734

AMENDMENT NO. A15  
(to be filled in by  
Principal Clerk)

S734-ASB-98 [v.7]

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Comm. Sub. [YES]  
Amends Title [NO]  
Third Edition

Date \_\_\_\_\_, 2014

Senator Brock

1 moves to amend the bill on page 7, line 16,  
2 by deleting "(a)" and substituting "(a)";  
3  
4 on page 9, line 26 through page 10, line 16, by deleting the lines and substituting the following:  
5 "**SECTION 1.14.(b)** G.S. 150B-21.4 reads as rewritten:  
6 "**§ 150B-21.4. Fiscal ~~notes~~ and regulatory impact analysis on rules.**  
7 (a) State Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register  
8 the proposed text of a permanent rule change that would require the expenditure or distribution  
9 of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit  
10 the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note  
11 on the proposed rule change to the Office of State Budget and Management and obtain  
12 certification from the Office of State Budget and Management that the funds that would be  
13 required by the proposed rule change are available. ~~The agency shall submit the text of the~~  
14 ~~proposed rule change, an analysis of the proposed rule change, and a fiscal note on the~~  
15 ~~proposed rule change to the Office at the same time as the agency submits the notice of text for~~  
16 ~~publication pursuant to G.S. 150B-21.2.~~ The fiscal note must state the amount of funds that  
17 would be expended or distributed as a result of the proposed rule change and explain how the  
18 amount was computed. The Office of State Budget and Management must certify a proposed  
19 rule change if funds are available to cover the expenditure or distribution required by the  
20 proposed rule change.  
21 (a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section,  
22 any agency that adopts a rule affecting environmental permitting of Department of  
23 Transportation projects shall conduct an analysis to determine if the rule will result in an  
24 increased cost to the Department of Transportation. The analysis shall be conducted and  
25 submitted to the Board of Transportation when the agency submits the notice of text for  
26 publication. The agency shall consider any recommendations offered by the Board of  
27 Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the  
28 Board of Transportation may submit any objection to the rule it may have to the Rules Review  
29 Commission. If the Rules Review Commission receives an objection to a rule from the Board  
30 of Transportation no later than 5:00 P.M. of the day following the day the Commission  
31 approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).



\* S 7 3 4 - A S B - 9 8 - V - 7 \*

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1 (b) Local Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register  
2 the proposed text of a permanent rule change that would affect the expenditures or revenues of  
3 a unit of local government, it must submit the text of the proposed rule change and a fiscal note  
4 on the proposed rule change to the Office of State Budget and Management as provided by G.S.  
5 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina  
6 Association of County Commissioners, and the North Carolina League of Municipalities. The  
7 fiscal note must state the amount by which the proposed rule change would increase or  
8 decrease expenditures or revenues of a unit of local government and must explain how the  
9 amount was computed.

10 (b1) Substantial Economic Impact. – Before an agency ~~adopts~~ publishes in the North  
11 Carolina Register the proposed text of a permanent rule change that would have a substantial  
12 economic impact and that is not identical to a federal regulation that the agency is required to  
13 adopt, the agency shall prepare a fiscal note for the proposed rule change and have the note  
14 approved by the Office of State Budget and Management. The agency must also obtain from  
15 the Office a certification that the agency adhered to the regulatory principles set forth in G.S.  
16 150B-19.1(a)(2), (5), and (6). The agency may request the Office of State Budget and  
17 Management to prepare the fiscal note only after, working with the Office, it has exhausted all  
18 resources, internal and external, to otherwise prepare the required fiscal note. If an agency  
19 requests the Office of State Budget and Management to prepare a fiscal note for a proposed rule  
20 change, that Office must prepare the note within 90 days after receiving a written request for  
21 the note. If the Office of State Budget and Management fails to prepare a fiscal note within this  
22 time period, the agency proposing the rule change shall prepare a fiscal note. A fiscal note  
23 prepared in this circumstance does not require approval of the Office of State Budget and  
24 Management.

25 If an agency prepares the required fiscal note, the agency must submit the note to the Office  
26 of State Budget and Management for review. The Office of State Budget and Management  
27 shall review the fiscal note within 14 days after it is submitted and either approve the note or  
28 inform the agency in writing of the reasons why it does not approve the fiscal note. After  
29 addressing these reasons, the agency may submit the revised fiscal note to that Office for its  
30 review. If an agency is not sure whether a proposed rule change would have a substantial  
31 economic impact, the agency shall ask the Office of State Budget and Management to  
32 determine whether the proposed rule change has a substantial economic impact. Failure to  
33 prepare or obtain approval of the fiscal note as required by this subsection shall be a basis for  
34 objection to the rule under G.S. 150B-21.9(a)(4).

35 As used in this subsection, the term "substantial economic impact" means an aggregate  
36 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a  
37 12-month period. In analyzing substantial economic impact, an agency shall do the following:

- 38 (1) Determine and identify the appropriate time frame of the analysis.
- 39 (2) Assess the baseline conditions against which the proposed rule is to be  
40 measured.
- 41 (3) Describe the persons who would be subject to the proposed rule and the type  
42 of expenditures these persons would be required to make.

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1 (4) Estimate any additional costs that would be created by implementation of the  
2 proposed rule by measuring the incremental difference between the baseline  
3 and the future condition expected after implementation of the rule. The  
4 analysis should include direct costs as well as opportunity costs. Cost  
5 estimates must be monetized to the greatest extent possible. Where costs are  
6 not monetized, they must be listed and described.

7 (5) For costs that occur in the future, the agency shall determine the net present  
8 value of the costs by using a discount factor of seven percent (7%).

9 (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the  
10 following:

11 (1) A description of the persons who would be affected by the proposed rule  
12 change.

13 (2) A description of the types of expenditures that persons affected by the  
14 proposed rule change would have to make to comply with the rule and an  
15 estimate of these expenditures.

16 (3) A description of the purpose and benefits of the proposed rule change.

17 (4) An explanation of how the estimate of expenditures was computed.

18 (5) A description of at least two alternatives to the proposed rule that were  
19 considered by the agency and the reason the alternatives were rejected. The  
20 alternatives may have been identified by the agency or by members of the  
21 public.

22 (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity  
23 of a rule.

24 (d) If an agency proposes the repeal of an existing rule, the agency is not required to  
25 prepare a fiscal note on the proposed rule change as provided by this section."";

26  
27 on page 12, lines 30 through 34,  
28 by rewriting those line to read:

29  
30 "(2) The basin was constructed prior to 2006.

31 (3) The basin has not been used for the containment of dairy cattle waste after  
32 September 1, 2006.

33 (4) The only liquid currently entering the basin is from rainwater or rainwater  
34 runoff.

35 (5) Nitrogen levels in the basin water do not exceed 40 parts per million."";  
36

37 on page 13, line 23,  
38 by deleting "(d)" and substituting "(d)";

39  
40 on page 18, line 21,  
41 by deleting "(1a)" and substituting "(1a)";

42  
43 on page 22, lines 27 and 28,

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- 1 by rewriting those lines to read:  
2  
3 "Article to read:  
4 "Article 7D. Environmental Audit Privilege and Limited Immunity.";  
5  
6 on page 22, line 36 through page 27, line 14,  
7 by deleting the word "Part" where it appears on those lines and substituting the word "Article";  
8  
9 on page 22, line 36 through page 27, line 14,  
10 by deleting the word "Part:" where it appears on those lines and substituting the word  
11 "Article:";  
12  
13 on page 22, line 36 through page 27, line 14,  
14 by deleting the word "Part," where it appears on those lines and substituting the word  
15 "Article,";  
16  
17 on page 22, line 36 through page 27, line 14,  
18 by deleting the word "Part." where it appears on those lines and substituting the word  
19 "Article.";  
20  
21 on page 23, line 44,  
22 by deleting "G.S. 8-58.55." and substituting "G.S. 8-58.56.";  
23  
24 on page 24, line 18,  
25 by deleting "8-58.55." and substituting "8-58.56.";  
26  
27 on page 25, line 17,  
28 by deleting "§ 8-58.55." and substituting "§ 8-58.56.";  
29  
30 on page 25, line 34,  
31 by deleting "§ 8-58.56." and substituting "§ 8-58.57.";  
32  
33 on page 25, line 36,  
34 by deleting "§ 8-58.57." and substituting "§ 8-58.58.";  
35  
36 on page 25, line 40,  
37 by deleting "G.S. 8-58.55" and substituting "G.S. 8-58.56";  
38  
39 on page 25, line 42,  
40 by deleting "§ 8-58.58." and substituting "§ 8-58.59.";  
41  
42 on page 25, line 48,  
43 by deleting "G.S. 8-58.55." and substituting "G.S. 8-58.56.";

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- 1
- 2 on page 25, line 49,
- 3 by deleting "§ 8-58.59." and substituting "§ 8-58.60.";
- 4
- 5 on page 26, line 7,
- 6 by deleting "§ 8-58.60." and substituting "§ 8-58.61.";
- 7
- 8 on page 27, line 14,
- 9 by adding a quotation mark at the end of that line;
- 10
- 11 on page 29, line 10,
- 12 by deleting "act." and substituting "section.";
- 13
- 14 on page 33, line 46,
- 15 by deleting "c." and substituting "c.";
- 16
- 17 on page 37, lines 25 and 26,
- 18 by inserting between those lines:
- 19
- 20 **"SECTION 3.23.(c)** This section becomes effective December 1, 2014, and applies
- 21 to offenses committed on or after that date.";
- 22
- 23 on page 39, line 42,
- 24 by deleting "Section 3.28(d)" and substituting "Section 3.27(d)";
- 25
- 26 on page 39, line 44,
- 27 by deleting "Section 3.28(c)" and substituting "Section 3.27(c)";
- 28
- 29 on page 40, line 8,
- 30 by deleting "Section 3.28(c)" and substituting "Section 3.27(c)";
- 31
- 32 on page 40, line 14,
- 33 by deleting "Section 3.28(c)" and substituting "Section 3.27(c)";
- 34
- 35 on page 40, line 15,
- 36 by deleting "Section 3.28(d)" and substituting "Section 3.27(d)";
- 37
- 38 on page 41, line 31,
- 39 by deleting "Section 3.31(a)" and substituting "Section 3.30(a)";
- 40
- 41 on page 41, line 33,
- 42 by deleting "Section 3.31(a)" and substituting "Section 3.30(a)";
- 43

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- 1 on page 41, line 34,
- 2 by deleting "Section 3.31(b)" and substituting "Section 3.30(b)";
- 3
- 4 on page 50, lines 28 and 29,
- 5 by rewriting those lines to read:
- 6
- 7 **"SECTION 3.31.(f)** This section becomes effective August 1, 2015."; and
- 8
- 9
- 10 on page 56, line 8,
- 11 by deleting "(a)" and substituting "a".

SIGNED \_\_\_\_\_  
Amendment Sponsor

SIGNED \_\_\_\_\_  
Committee Chair if Senate Committee Amendment

ADOPTED \_\_\_\_\_ FAILED \_\_\_\_\_ TABLED \_\_\_\_\_

**The official copy of this document, with signatures  
and vote information, is available in the  
Senate Principal Clerk's Office**