

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**HOUSE BILL 1802  
RATIFIED BILL**

AN ACT TO AMEND OR REPEAL VARIOUS ENVIRONMENTAL AND NATURAL RESOURCES REPORTING REQUIREMENTS AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO THE ENVIRONMENT, ENERGY, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

**PART I. REPORTS CONSOLIDATION.**

**SECTION 1.** G.S. 130A-309.06(c)(13) is repealed.

**SECTION 2.** G.S. 130A-310.57 reads as rewritten:

**"§ 130A-310.57. (Effective until December 31, 2017) Reports.**

The Department shall submit an annual report on the mercury switch removal program under this Part to the Environmental Review ~~Commission~~ Commission, and the Senate and House of Representatives Appropriations Subcommittees on Natural and Economic ~~Resources~~ Resources, and the Fiscal Research Division of the General Assembly on or before 1, October of each year. The report shall include, at a minimum, all of the following:

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

**SECTION 3.** G.S. 143-214.13 reads as rewritten:

**"§ 143-214.13. Ecosystem Enhancement Program: reporting requirement.**

(a) The Department of Environment and Natural Resources shall report each year by November 1 to the Environmental Review ~~Commission~~ Commission and to the Joint Legislative Commission on Governmental Operations regarding its progress in implementing the Ecosystem Enhancement Program and its use of the funds in the Ecosystem Restoration Fund. The report shall document statewide wetlands losses and gains and compensatory mitigation performed under G.S. 143-214.8 through G.S. 143-214.12. The report shall also provide an accounting of receipts and disbursements of the Ecosystem Restoration Fund, an analysis of the per-acre cost of wetlands restoration, and a cost comparison on a per-acre basis between the State's Ecosystem Enhancement Program and private mitigation banks. The Department shall also send a copy of its report to the Fiscal Research Division of the General Assembly.

(b) The Department shall maintain an inventory of all property that is held, managed, maintained, enhanced, restored, or used to create wetlands under the Ecosystem Enhancement Program. The inventory shall also list all conservation easements held by the Department. The inventory shall be included in the annual report required under subsection (a) of this section."

**SECTION 4.** G.S. 143B-336.1 reads as rewritten:



**"§ 143B-336.1. Special Zoo Fund.**

A special continuing and nonreverting fund, to be called the Special Zoo Fund, is created. The North Carolina Zoological Park shall retain unbudgeted receipts at the end of each fiscal year, beginning June 30, 1989, and deposit these receipts into this Fund. This Fund shall be used for maintenance, repairs, and renovations of exhibits in existing habitat clusters and visitor services facilities, construction of visitor services facilities and support facilities such as greenhouses and temporary animal holding areas, for the replacement of tram equipment as required to maintain adequate service to the public, and for marketing the Zoological Park. The Special Zoo Fund may also be used to match private funds that are raised for these purposes. Funds may be expended for these purposes by the Department of Environment and Natural Resources on the advice of the North Carolina Zoological Park Council and with the approval of the Office of State Budget and Management. The Department of Environment and Natural Resources shall provide ~~an annual~~ a report on or before October 1 of each year to the Office of State Budget and Management ~~Management, and to the Fiscal Research Division of the Legislative Services Office General Assembly, and to the Joint Legislative Commission on Governmental Operations~~ on the use of fees collected pursuant to this section."

**SECTION 5.** G.S. 143B-344.21 reads as rewritten:

**"§ 143B-344.21. Reports to General Assembly.**

The Commission shall prepare and submit a report outlining the needs of the North Carolina State Museum of Natural Sciences and recommendations for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth to the 1995 General Assembly, and to each succeeding General Assembly, to the Fiscal Research Division of the General Assembly, and to the Joint Legislative Commission on Governmental Operations ~~a report outlining the needs of the North Carolina State Museum of Natural Sciences and their recommendation for improvement of the effectiveness of the North Carolina State Museum of Natural Sciences for the purpose hereinabove set forth on or before October 1 of each year.~~"

**SECTION 6.** S.L. 2002-4, Section 11, as amended by S.L. 2006-79, reads as rewritten:

**"SECTION 11.** The Environmental Management Commission shall study the desirability of requiring and the feasibility of obtaining reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO<sub>2</sub>) beyond those required by G.S. 143-215.107D, as enacted by Section 1 of this act. The Environmental Management Commission shall consider the availability of emissions reduction technologies, increased cost to consumers of electric power, reliability of electric power supply, actions to reduce emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO<sub>2</sub>) taken by states and other entities whose emissions negatively impact air quality in North Carolina or whose failure to achieve comparable reductions would place the economy of North Carolina at a competitive disadvantage, and the effects that these reductions would have on public health, the environment, and natural resources, including visibility. In its conduct of this study, the Environmental Management Commission may consult with the Utilities Commission and the Public Staff. The Environmental Management Commission shall report its findings and recommendations to the General Assembly and the Environmental Review Commission ~~annually~~ biennially beginning 1 September 2007, 1 September 2011."

**PART II. TECHNICAL CORRECTIONS.**

**SECTION 7.** G.S. 114-4.2D reads as rewritten:

**"§ 114-4.2D. Employment of attorney for Energy Policy Council and Energy Efficiency Program of the Department of Administration Commerce.**

The Attorney General shall assign an attorney ~~on his staff~~ to work full time with the Energy Policy Council and Energy Efficiency Program of the Department of ~~Administration Commerce~~. Such attorney shall be subject to all provisions of Chapter 126 of the General Statutes relating to the State Personnel System. Such attorney shall also perform such additional duties as may be assigned ~~to him~~ by the Attorney General."

**SECTION 8.** The title of Article 19 of Chapter 120 of the General Statutes reads as rewritten:

"Article 19.

~~Commission on Agriculture and Forestry Awareness Study Commission.~~"

**SECTION 9.** G.S. 120-150 reads as rewritten:

**"§ 120-150. Creation; appointment of members.**

There is created an Agriculture and Forestry Awareness Study Commission. Members of the Commission shall be citizens of North Carolina who are interested in the vitality of the agriculture and forestry sectors of the State's economy. Members shall be as follows:

- (1) Three appointed by the ~~Governor~~; Governor.
- (2) Three appointed by the President Pro Tempore of the ~~Senate~~; Senate.
- (3) Three appointed by the Speaker of the ~~House~~; House.
- (4) The ~~chairman~~ chairs of the House Agriculture ~~Committee~~; Committee.
- (5) The ~~chairman~~ chairs of the Senate Agriculture ~~Committee~~; Committee on Agriculture, Environment, and Natural Resources.
- (6) The Commissioner of Agriculture or the Commissioner's ~~designee~~; designee.
- (7) A member of the Board of Agriculture designated by the ~~chairman~~ chair of the Board of ~~Agriculture~~; Agriculture.
- (8) The President of the North Carolina Farm Bureau Federation, Inc., or the President's ~~designee~~; designee.
- (9) The ~~Master~~ President of the North Carolina State Grange or the ~~Master's~~ President's ~~designee~~; designee.
- (10) The Secretary of Environment and Natural Resources or the Secretary's ~~designee~~; and designee.
- (11) The President of the North Carolina Forestry Association, Inc., or the President's designee.

Members shall be appointed for two-year terms beginning October 1 of each odd-numbered year. The Chairs of the House Agriculture Committee and the Chairs of the Senate Committee on Agriculture, Environment, and Natural Resources shall serve as cochairs. ~~The cochairmen of the Commission shall be the chairmen of the Senate and House Agriculture Committees respectively."~~

**SECTION 10.** G.S. 130A-309.10(1) reads as rewritten:

"(1) Oyster shells that are delivered to a landfill shall be stored at the landfill for at least 90 days or until they are removed for recycling. If oyster shells that are stored at a landfill are not removed for recycling within 90 days of delivery to the landfill, then, notwithstanding subdivision ~~(12)~~(13) of subsection (f) of this section, the oyster shells may be disposed of in the landfill."

**SECTION 11.** G.S. 130A-309.12(b) reads as rewritten:

"(b) The Solid Waste Management Trust Fund shall consist of the following:

- (1) Funds appropriated by the General Assembly.
- (2) Contributions and grants from public or private sources.
- (3) ~~Five percent (5%)~~ Eight percent (8%) of the proceeds of the scrap tire disposal tax imposed under Article 5B of Chapter 105 of the General Statutes.
- (4) Eight percent (8%) of the proceeds of the white goods disposal tax imposed under Article 5C of Chapter 105 of the General Statutes.
- (5) Twelve and one-half percent (12.5%) of the proceeds of the solid waste disposal tax imposed under Article 5G of Chapter 105 of the General Statutes."

**SECTION 12.** G.S. 130A-310.11(b) reads as rewritten:

"(b) Funds credited to the Inactive Hazardous Sites Cleanup Fund pursuant to G.S. 130A-295.9 shall be used only as provided in G.S. 130A-295.9(1) and ~~G.S. 130A-310.5(e)~~; G.S. 130A-310.6(c)."

**SECTION 13.** G.S. 143-355.4(b) reads as rewritten:

"(b) To be eligible for State water infrastructure funds from the Drinking Water ~~State~~ Revolving Fund or the Drinking Water Reserve ~~Fund~~ or any other grant or loan of funds allocated by the General Assembly whether the allocation of funds is to a State agency or to a nonprofit organization for the purpose of extending waterlines or expanding water treatment capacity, a local government or large community water system must demonstrate that the system:

...."

**SECTION 14.** G.S. 153B-2 reads as rewritten:

"§ 153B-2. **Definitions.**

The following definitions apply in this ~~Article~~; Chapter:

- (1) Commission. – The Mountain Resources Commission created by this Chapter.
- (2) Council. – The Mountain Area Resources Technical Advisory Council.
- (3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.
- (4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.
- (5) Secretary. – The Secretary of ~~the Department of Environment and Natural Resources.~~"

**SECTION 15.** G.S. 153B-3(d) reads as rewritten:

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

...

(d1) Officers; Terms. – The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009."

**SECTION 16.** G.S. 153B-4 reads as rewritten:

"§ 153B-4. **Mountain Area Resources Technical Advisory Council.**

...

(d) Members; Multiple Offices. – Membership on the ~~Mountain Area Resources Technical Advisory Council~~ is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) ~~Chairman-Chair and Vice Chairman~~Chair. – A chairman and vice chairman shall be elected annually by the Council.

(f) Compensation. – The members of the ~~Advisory Council~~ who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

**SECTION 17.** Section 3(d) of S.L. 2005-190 reads as rewritten:

"**SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act.** – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under ~~Chapter 159G of the General Statutes~~G.S. 159G-20 on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works."

### **PART III. EFFECTIVE DATE.**

**SECTION 18.** This act is effective when it becomes law.  
In the General Assembly read three times and ratified this the 9<sup>th</sup> day of July, 2010.

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Walter H. Dalton  
President of the Senate

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Joe Hackney  
Speaker of the House of Representatives

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Beverly E. Perdue  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2010