

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

Legislative Fiscal Note

BILL NUMBER: Senate Bill 615 (Second Edition)

SHORT TITLE: North Carolina Farm Act of 2017.

SPONSOR(S): Senators B. Jackson, Sanderson, and Brock

FISCAL IMPACT					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
State Impact					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
NET STATE IMPACT	No estimate available. Please see Assumptions & Methodology section for additional details.				
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED:					
The Department of Agriculture and Consumer Services					
EFFECTIVE DATE: When it becomes law.					
TECHNICAL CONSIDERATIONS:					
None					

BILL SUMMARY:

The bill would make various changes to General Statutes that would affect agribusiness in North Carolina.

Section 1: Agriculture and Forestry Awareness Study Commission Studies

Section 1 of the bill directs the Agriculture and Forestry Awareness Study Commission to study updates to Article 44 of Chapter 106 of the General Statutes, which governs unfair practices by handlers of fruits and vegetables, and to study the advisability of providing property tax abatement to aging farm machinery.

Section 2: Exempt Additional Class of Facilities from Rule on Control and Prohibition of Odorous Emissions

Section 2 of the bill would require the Environmental Management Commission (EMC) to classify facilities that store products that are grown, produced, or generated on one or more agricultural operations and that are "renewable energy resources" as defined in G.S. 62 133.8(a)(8) as agricultural operations that are exempt from the requirements of 15A NCAC 02D.1806. Among other things, this rule prohibits an owner or operator of a facility subject to the rule from operating the facility without implementing management practices or installing and operating odor control equipment sufficient to prevent odorous emissions from the facility from causing or contributing to objectionable odors beyond the facility's boundary. The rule applies to all operations that may

produce odorous emissions that can cause or contribute to objectionable odors beyond the facility's boundaries, with certain specific exceptions.

Section 3: Present Use-Value Change

Section 3 of the bill would add grazing fees for livestock to the eligible categories for gross income, which currently includes income from the sale of the agricultural products produced from the land, any payments received under a governmental soil conservation or land retirement program, and the amount paid to the taxpayer during the taxable year pursuant to the Fair and Equitable Tobacco Reform Act of 2004. The General Statutes allow agricultural land, horticultural land, and forestland to be valued for property tax purposes based on its present use (i.e., not its highest and best use). To qualify as agricultural land, the land must be individually owned, must consist of at least 10 acres that are in actual production, and must meet certain income requirements as follows: the land must, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000). This section would be effective for taxes imposed for taxable years beginning on or after July 1, 2017.

Section 4: Abandoned Livestock Amendments

Section 4 of the bill would clarify when livestock is deemed to be abandoned and provide that if the owner has not retaken custody after a two-month period and the custodian of the abandoned livestock is unable to collect past-due fees from the owner, the custodian may sell or transfer the livestock. Further, if the custodian is unable to sell or transfer the livestock, the custodian may humanely dispose of the abandoned livestock.

Section 5: Establish Rebuttable Presumption for Zoning, Unified Development Ordinances, and Other Appeals before Boards of Adjustment

Section 5 of the bill would provide that an appeal before a municipal board of adjustment (BOA) must be heard de novo. The bill would further add a rebuttable presumption that the actual or proposed use of the property that is the subject of the appeal is valid or consistent with the ordinance. The presumption of validity or consistency may be rebutted by clear and convincing evidence to the contrary if presented by the city or the official who made the decision.

Section 6: Clarify the Authority of Department of Agriculture and Consumer Services (DACS) to Adopt and Administer Forest Practice Guidelines for Purposes of the Sedimentation Pollution Control Act

Section 6 of the bill would add conforming changes following the transfer in 2013 of responsibility for forestry matters from the Division of Forest Resources in the Department of Environmental Quality to the North Carolina Forest Service (NCFS) of DACS.

Section 7: Assent to Mutual Aid Provisions of the Great Plains Wildland Protection Compact

Section 7 of the bill would add the Plains Wildland Fire Protection Compact to compacts to which the State assents to mutual aid provisions.

Section 8: Clarify Agritourism

Section 8 of the bill would add a building or structure that is used for agritourism as a bona fide farm purpose if it is located on a property that has a qualifying farmer sales tax exemption

certificate from the Department of Revenue or is eligible for participation in the present use value program. A building or structure used for agritourism includes any building or structure used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

Section 9: Eliminate County Authority to Adopt Zoning Regulations Governing Swine Farms

Section 9 of the bill would eliminate the exemption that allows counties to adopt zoning regulations governing swine farms.

Section 10: Allow Food Compliance Inspectors to Drive State Vehicles without State Tags and Bumper Stickers

Section 10 of the bill would exempt motor vehicles used by DACS exclusively for Meat and Poultry compliance officers to conduct investigations from a requirement to be marked as an official state vehicle.

Section 11: Meat and Poultry Technical Corrections

Section 11 of the bill would correct a citation to the Federal Food, Drug, and Cosmetic Act which concerns listing and certification of color additives for foods, drugs, devices, and cosmetics.

Section 12: Modernize Forest Ranger Statutes

Section 12 of the bill would clarify the roles of forest rangers, deputy rangers, and emergency workers and authorizes the Commissioner of Agriculture to authorize as many of each category as the Commissioner deems necessary and available.

Section 13: Allow Emergency Workers to Receive Worker's Compensation When Responding To Non Fire Emergencies

Section 13 of the bill would modify the Workers Compensation Act in Chapter 97 of the General Statutes to specify emergency workers for purposes of eligibility to receive worker's compensation when such individuals are injured in the course of those duties. The bill would further provide that an emergency worker is considered an employee when engaged in emergency activities for snow events, hurricanes, earthquakes, floods, or other emergencies, in addition to fire suppression activities outlined under existing law.

Section 14: Create Exception from Conservation Benefit Analysis for Certain Easements

Section 14 of the bill would exempt voluntary termination or modification of conservation agreements where the termination or modification would affect no more than the lesser of two percent or one acre of the total easement area of the conservation agreement when requested by a public utility, the Department of Transportation, or a government entity having eminent domain authority under the General Statutes.

Section 15: Exempt Farm Trucks That Stay In State from Having A USDOT Identification Number

Section 15 of the bill would exempt motor vehicles licensed under a farmer rate under Chapter 20 of the General Statutes (Motor Vehicles) from USDOT Identification Number requirements, which

may include trucks and truck tractors that are operated for the primary purpose of carrying or transporting farm products and farm supplies.

Section 16: Exempt Closure of Hog Lagoons from Requiring the Use of a Professional Engineer

Section 16 of the bill would add an exemption from the practice of engineering for the closure of waste impoundments for animal waste management systems by a person who is designated a Lagoon Closure Technical Specialist by the North Carolina Soil and Water Conservation Commission. The bill explicitly provides that the exemption would not apply to the design or installation of a spillway.

ASSUMPTIONS AND METHODOLOGY:

Fiscal Research Division (FRD) does not anticipate any costs to the State related to this bill.

Section 3: Present Use-Value Change

FRD does not anticipate that inclusion of grazing fees as an eligible category for income would have a significant impact on present-use value acreage and minimal impact on property tax revenues.

Section 7: Assent to Mutual Aid Provisions of the Great Plains Wildland Protection Compact

FRD does not anticipate that this change will have any fiscal impact to the State. While NCFS would be able to order wildland firefighting resources directly from the Great Plains Compact States instead of going through the U.S. Forest Service, FRD anticipates that any efficiency achieved through this change would allow NCFS to use those funds for other operations.

Section 10: Allow Food Compliance Inspectors to Drive State Vehicles without State Tags and Bumper Stickers

FRD does not anticipate that this change will have any fiscal impact to the State. DACS has five meat and poultry inspectors who would be able to drive State cars instead of their personal vehicles when doing undercover inspections, which would result in lower mileage reimbursements and potentially less liability for the Department in the event of an accident. FRD anticipates that any efficiencies achieved through this change would allow DACS to use those funds for other operations.

Section 13: Allow Emergency Workers to Receive Worker's Compensation When Responding To Non Fire Emergencies

FRD does not anticipate that this change will have any fiscal impact to the State. Although this section broadens the situations in which emergency workers (whose designation is changed from pickup firefighters in Section 12) could recover Worker's Compensation insurance if injured, this would not increase the number of individuals covered by Worker's Compensation insurance. NCFS has had approximately seven Worker's Compensation cases involving emergency workers in the last 17 years. FRD anticipates that any efficiencies achieved through this change would allow NCFS to use those funds for other operations.

Section 14: Create Exception from Conservation Benefit Analysis for Certain Easements

FRD does not anticipate that this change will have any fiscal impact to the State. If a government entity were to modify a conservation easement covered under this section, the entity would have to pay for the property taken and the proceeds would be divided up according to set language in the easement. FRD anticipates that the fiscal impact to any affected State agency would be minimal and would be absorbed through current operations, leading to no fiscal impact to the State.

SOURCES OF DATA: The Department of Agriculture

TECHNICAL CONSIDERATIONS: None

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