

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

4

SENATE BILL 734
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/20/14
Finance Committee Substitute Adopted 5/21/14
Fourth Edition Engrossed 5/29/14

Short Title: Regulatory Reform Act of 2014.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, BY MAKING VARIOUS OTHER STATUTORY CHANGES, AND BY UPDATING AND AMENDING CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

PART I. ADMINISTRATIVE REFORMS

HARDISON AMENDMENT CLARIFICATION

SECTION 1.1.(a) G.S. 150B-19.3 reads as rewritten:

"§ 150B-19.3. Limitation on certain environmental rules.

(a) An agency authorized to implement and enforce State and federal environmental laws may not adopt a rule for the protection of the environment or natural resources that imposes a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted, unless adoption of the rule is required by one of the following subdivisions of this subsection. A rule required by one of the subdivisions of this subsection shall be subject to the provisions of G.S. 150B-21.3(b1) as if the rule received written objections from 10 or more persons under G.S. 150B-21.3(b2).

- (1) A serious and unforeseen threat to the public health, safety, or welfare.
- (2) An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
- (3) A change in federal or State budgetary policy.
- (4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
- (5) A court order.

(b) For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

- (1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.



- 1 (2) The Environmental Management Commission created pursuant to
2 G.S. 143B-282.
- 3 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 4 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 5 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 6 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 7 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
- 8 (8) The North Carolina Mining and Energy Commission created pursuant to
9 G.S. 143B-293.1.
- 10 (9) The Pesticide Board created pursuant to G.S. 143-436."

11 **SECTION 1.1.(b)** G.S. 150B-21.3A(a) reads as rewritten:

12 **"§ 150B-21.3A. Periodic review and expiration of existing rules.**

13 (a) Definitions. – For purposes of this section, the following definitions apply:

14 ...

15 (3) Necessary with substantive public interest. – Means any rule for which the
16 agency has received public comments within the past two years. A rule is
17 also "necessary with substantive public interest" if either or both of the
18 following applies:

19 a. ~~the~~The rule affects the property interest of the regulated public and
20 the agency knows or suspects that any person may object to the rule.

21 b. The rule imposes a more restrictive standard, limitation, or
22 requirement than those imposed by federal law or rule, if a federal
23 law or rule pertaining to the same subject matter has been adopted."

24 **SECTION 1.1.(c)** Section 1.1(a) of this section becomes effective July 1, 2014,
25 and applies to rules adopted or readopted on or after that date. Section 1.1(b) of this section
26 becomes effective August 23, 2013, and applies to rules reviewed on or after that date.

27
28 **SCOPE OF LOCAL AUTHORITY FOR ORDINANCES**

29 **SECTION 1.2.(a)** Section 10.2 of S.L. 2013-413 is repealed.

30 **SECTION 1.2.(b)** No later than November 1, 2014, and November 1, 2015, the
31 Department of Agriculture and Consumer Services shall report to the Environmental Review
32 Commission on any local government ordinances that impinge on or interfere with any area
33 subject to regulation by the Department.

34 **SECTION 1.2.(c)** No later than November 1, 2014, and November 1, 2015, the
35 Department of Environment and Natural Resources shall report to the Environmental Review
36 Commission on any local government ordinances that impinge on or interfere with any area
37 subject to regulation by the Department.

38 **SECTION 1.2.(d)** Article 56 of Chapter 106 of the General Statutes is amended by
39 adding a new section to read:

40 **"§ 106-678. Authority to regulate fertilizers.**

41 No county, city, or other political subdivision of the State shall adopt or continue in effect
42 any ordinance, rule, regulation, or resolution regulating the use, sale, distribution, storage,
43 transportation, disposal, formulation, labeling, registration, manufacture, or application of
44 fertilizer. Nothing in this section shall prohibit a county, city, or other political subdivision of
45 the State from exercising its planning and zoning authority under Article 19 of Chapter 160A of
46 the General Statutes or Article 18 of Chapter 153A of the General Statutes, or from exercising
47 its fire prevention or inspection authority. Nothing in this section shall limit the authority of the
48 Department of Environment and Natural Resources or the Environmental Management
49 Commission to enforce water quality standards. Nothing in this section shall prohibit a county,
50 city, or other political subdivision of the State from adopting ordinances regulating fertilizers to
51 protect water quality, provided that the ordinances have been approved by the Environmental

1 Management Commission or the Department of Environment and Natural Resources as part of
2 a local plan or NPDES permit application and do not exceed the State's minimum requirements
3 to protect water quality as established by the Environmental Management Commission under
4 Part 1, Article 21 of Chapter 143 of the General Statutes."

6 **LOTTERY OVERSIGHT COMMITTEE ELIMINATED**

7 **SECTION 1.4.(a)** G.S. 18C-172 is repealed.

8 **SECTION 1.4.(b)** G.S. 18C-115 reads as rewritten:

9 **"§ 18C-115. Reports.**

10 The Commission shall send quarterly and annual reports on the operations of the
11 Commission to the Governor, State Treasurer, ~~the Lottery Oversight Committee,~~ and to the
12 General Assembly. The reports shall include complete statements of lottery revenues, prize
13 disbursements, expenses, net revenues, and all other financial transactions involving lottery
14 funds, including the occurrence of any audit."

16 **REPRESENTATION OF SMALL BUSINESS ENTITIES IN ADMINISTRATIVE** 17 **APPEALS**

18 **SECTION 1.5.(a)** G.S. 150B-23(a) reads as rewritten:

19 "(a) A contested case shall be commenced by paying a fee in an amount established in
20 G.S. 150B-23.2 and by filing a petition with the Office of Administrative Hearings and, except
21 as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who
22 files the petition shall serve a copy of the petition on all other parties and, if the dispute
23 concerns a license, the person who holds the license. A party who files a petition shall file a
24 certificate of service together with the petition. A petition shall be signed by a party, an
25 attorney representing a party, or other representative of the party as may specifically be
26 authorized by law, and, if filed by a party other than an agency, shall state facts tending to
27 establish that the agency named as the respondent has deprived the petitioner of property, has
28 ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced
29 the petitioner's rights and that the agency:

- 30 (1) Exceeded its authority or jurisdiction;
- 31 (2) Acted erroneously;
- 32 (3) Failed to use proper procedure;
- 33 (4) Acted arbitrarily or capriciously; or
- 34 (5) Failed to act as required by law or rule.

35 The parties in a contested case shall be given an opportunity for a hearing without undue
36 delay. Any person aggrieved may commence a contested case hereunder.

37 A local government employee, applicant for employment, or former employee to whom
38 Chapter 126 of the General Statutes applies may commence a contested case under this Article
39 in the same manner as any other petitioner. The case shall be conducted in the same manner as
40 other contested cases under this Article.

41 If the party is a small business entity, it may be represented by one or more of its owners
42 with the written consent of all the owners, and the Office of Administrative Hearings may not
43 require that the entity retain or be represented by an attorney. A small business entity is a
44 limited liability company or a corporation that is owned, directly or indirectly, by no more than
45 two individuals. An individual is an indirect owner if the individual is a member or shareholder
46 of a limited liability company or a corporation that is an owner of the small business entity."

47 **SECTION 1.5.(b)** G.S. 105-290 is amended by adding a new subsection to read:

48 "(d2) Small Business Entity Representation. – If a property owner is a small business
49 entity, that entity may be represented by one or more of its owners with the written consent of
50 all the owners, and the Commission may not require that the entity retain or be represented by
51 an attorney. A small business entity is a limited liability company or a corporation that is

1 owned, directly or indirectly, by no more than two individuals. An individual is an indirect
2 owner if the individual is a member or shareholder of a limited liability company or a
3 corporation that is an owner of the small business entity."

4 **SECTION 1.5.(c)** This section is effective when it becomes law and applies to
5 contested cases and appeals commenced on or after that date.

6 7 **EXEMPT SMALL BUSINESS ENTITIES BUYING OR SELLING ENTITY-OWNED** 8 **PROPERTY**

9 **SECTION 1.6.(a)** G.S. 93A-2(c)(1) reads as rewritten:

10 "(c) The provisions of G.S. 93A-1 and G.S. 93A-2 do not apply to and do not include:

11 (1) Any partnership, corporation, limited liability company, association, or other
12 business entity that, as owner or lessor, shall perform any of the acts
13 aforesaid with reference to property owned or leased by them, where the acts
14 are performed in the regular course of or as incident to the management of
15 that property and the investment therein. The exemption from licensure
16 under this subsection shall extend to the following persons when those
17 persons are engaged in acts or services for which the corporation,
18 partnership, limited liability company, or other business entity would be
19 exempt hereunder:

20 a. The officers and employees of an exempt corporation, the
21 corporation.

22 b. The general partners and employees of an exempt partnership, and
23 the partnership.

24 c. The managers and employees of an exempt limited liability company
25 when said persons are engaged in acts or services for which the
26 corporation, partnership, or limited liability company would be
27 exempt hereunder-company.

28 d. The owners of an exempt closely held business entity. For purposes
29 of this subdivision, a closely held business entity is a limited liability
30 company or a corporation with no more than two legal owners.

31 e. The officers, managers, and employees of a closely held business
32 entity owned by a person exempt under sub-subdivision d. of this
33 subdivision."

34 35 **REDUCE STATE AGENCY MOBILE DEVICE REPORTING FREQUENCY**

36 **SECTION 1.7** Subsection 6A.14(a) of Session Law 2011-145 reads as rewritten:

37 **"SECTION 6A.14.(a)** Every executive branch agency within State government shall
38 develop a policy to limit the issuance and use of mobile electronic devices to the minimum
39 required to carry out the agency's mission. By September 1, 2011, each agency shall provide a
40 copy of its policy to the Chairs of the Appropriations Committee and the Appropriations
41 Subcommittee on General Government of the House of Representatives, the Chairs of the
42 Appropriations/Base Budget Committee and the Appropriations Committee on General
43 Government and Information Technology of the Senate, the Chairs of the Joint Legislative
44 Oversight Committee on Information Technology, the Fiscal Research Division, and the Office
45 of State Budget and Management.

46 State-issued mobile electronic devices shall be used only for State business. Agencies shall
47 limit the issuance of cell phones, smart phones, and any other mobile electronic devices to
48 employees for whom access to a mobile electronic device is a critical requirement for job
49 performance. The device issued and the plan selected shall be the minimum required to support
50 the employees' work requirements. This shall include considering the use of pagers in lieu of a
51 more sophisticated device. The requirement for each mobile electronic device issued shall be

1 documented in a written justification that shall be maintained by the agency and reviewed
2 annually. All State agency heads, in consultation with the Office of Information Technology
3 Services and the Office of State Budget and Management, shall document and review all
4 authorized cell phone, smart phone, and other mobile electronic communications device
5 procurement, and related phone, data, Internet, and other usage plans for and by their
6 employees. Agencies shall conduct periodic audits of mobile device usage to ensure that State
7 employees and contractors are complying with agency policies and State requirements for their
8 use.

9 Beginning October 1, 2011, each agency shall report ~~quarterly~~annually to the Chairs of the
10 House of Representatives Committee on Appropriations and the House of Representatives
11 Subcommittee on General Government, the Chairs of the Senate Committee on Appropriations
12 and the Senate Appropriations Committee on General Government and Information
13 Technology, the Joint Legislative Oversight Committee on Information Technology, the Fiscal
14 Research Division, and the Office of State Budget and Management on the following:

- 15 (1) Any changes to agency policies on the use of mobile devices.
- 16 (2) The number and types of new devices issued since the last report.
- 17 (3) The total number of mobile devices issued by the agency.
- 18 (4) The total cost of mobile devices issued by the agency.
- 19 (5) The number of each type of mobile device issued, with the total cost for each
20 type."

21
22 **ELIMINATE, AS OBSOLETE, THE SMALL BUSINESS CONTRACTOR**
23 **AUTHORITY, THE COMMITTEE ON DROPOUT PREVENTION, THE STATE**
24 **EDUCATION COMMITTEE, THE STATE EDUCATION COMMISSION, THE**
25 **NATIONAL HERITAGE AREA DESIGNATION COMMISSION, THE GOVERNOR'S**
26 **MANAGEMENT COUNCIL, THE BOARD OF DIRECTORS OF THE NORTH**
27 **CAROLINA CENTER FOR NURSING, THE BOARD OF CORRECTIONS; AND TO**
28 **ENCOURAGE THE CHIEF JUSTICE TO ABOLISH THE ACTUAL INNOCENCE**
29 **COMMISSION**

30 **SECTION 1.8.(a)** Part 20 of Article 10 of Chapter 143B of the General Statutes is
31 repealed.

32 **SECTION 1.8.(b)** Section 7.32(e) of S.L. 2007-323, as rewritten by Section
33 7.14(a) of S.L. 2008-107 and Section 7.19(e) of S.L. 2010-31, reads as rewritten:

34 "**SECTION 7.32.(e)** Report. – The Committee shall report to the Joint Legislative
35 Commission on Dropout Prevention and High School Graduation created in subsection (f) of
36 this section by December 1, 2007, on the grants awarded under subsection (d) of this section.
37 The Committee shall terminate July 1, 2014."

38 **SECTION 1.8.(c)** G.S. 116C-1 reads as rewritten:

39 "**§ 116C-1. Education Cabinet created.**

40 (a) The Education Cabinet is created. The Education Cabinet shall be located
41 administratively within, and shall exercise its powers within existing resources of, the Office of
42 the Governor. However, the Education Cabinet shall exercise its statutory powers
43 independently of the Office of the Governor.

44 (b) The Education Cabinet shall consist of the Governor, who shall serve as chair, the
45 President of The University of North Carolina, the State Superintendent of Public Instruction,
46 the Chairman of the State Board of Education, the President of the North Carolina Community
47 Colleges System, the Secretary of Health and Human Services, and the President of the North
48 Carolina Independent Colleges and Universities. The Education Cabinet may invite other
49 representatives of education to participate in its deliberations as adjunct members.

50 (c) The Education Cabinet shall be a nonvoting body that:

- 51 (1) Works to resolve issues between existing providers of education.

- 1 (2) Sets the agenda for the State Education Commission.
2 (3) Develops a strategic design for a continuum of education programs, in
3 accordance with G.S. 116C-3.
4 (4) Studies other issues referred to it by the Governor or the General Assembly.
5 (d) The Office of the Governor, in coordination with the staffs of The University of
6 North Carolina, the North Carolina Community College System, and the Department of Public
7 Instruction, shall provide staff to the Education Cabinet."

8 **SECTION 1.8.(d)** G.S. 116C-2 is repealed.

9 **SECTION 1.8.(e)** Article 26 of Chapter 143 of the General Statutes is repealed.

10 **SECTION 1.8.(f)** Section 18.10 of S.L. 2001-491 reads as rewritten:

11 "**SECTION 18.10.** Notwithstanding G.S. 158-8.1, the Western North Carolina Regional
12 Economic Development Commission shall develop a regional heritage tourism plan and shall
13 present the plan to the 2002 Regular Session of the 2001 General Assembly no later than May
14 1, 2002. The National Heritage Area Designation Commission created pursuant to Section 18.4
15 of this act shall terminate July 1, 2014."

16 **SECTION 1.8.(g)** Part 24 of Article 9 of Chapter 143B is repealed.

17 **SECTION 1.8.(h)** G.S. 90-171.71 is repealed.

18 **SECTION 1.8.(i)** G.S. 143B-711 reads as rewritten:

19 "**§ 143B-711. Division of Adult Correction of the Department of Public Safety –**
20 **organization.**

21 The Division of Adult Correction of the Department of Public Safety shall be organized
22 initially to include the Post-Release Supervision and Parole Commission, ~~the Board of~~
23 ~~Correction~~, the Section of Prisons of the Division of Adult Correction, the Section of
24 Community Corrections, the Section of Alcoholism and Chemical Dependency Treatment
25 Programs, and such other divisions as may be established under the provisions of the Executive
26 Organization Act of 1973."

27 **SECTION 1.8.(j)** G.S. 143B-715 is repealed.

28 **SECTION 1.8.(k)** The North Carolina Actual Innocence Commission was
29 established by the Chief Justice of the North Carolina Supreme Court. Its primary purpose was
30 to make recommendations which would reduce or eliminate the possibility of the wrongful
31 conviction of an innocent person. In 2006, the General Assembly enacted S.L. 2006-184, which
32 established the North Carolina Innocence Inquiry Commission, as recommended by the North
33 Carolina Actual Innocence Commission. Inasmuch as it appears that the work of the Actual
34 Innocence Commission is complete, the Chief Justice of the North Carolina Supreme Court is
35 encouraged to take appropriate action to formally abolish the Commission.

37 **CLARIFY PROCESS FOR READOPTION OF EXISTING RULES**

38 **SECTION 1.9.** G.S. 150B-21.3A(d) reads as rewritten:

39 "(d) Timetable. – The Commission shall establish a schedule for the review and
40 readoption of existing rules in accordance with this section on a decennial basis as follows:

- 41 (1) With regard to the review process, the Commission shall assign by assigning
42 each Title of the Administrative Code a date by which the review required
43 by this section must be completed. In establishing the schedule, the
44 Commission shall consider the scope and complexity of rules subject to this
45 section and the resources required to conduct the review required by this
46 section. The Commission shall have broad authority to modify the schedule
47 and extend the time for review in appropriate circumstances. Except as
48 provided in ~~subsection~~ subsections (d1) and (e) of this section, if the agency
49 fails to conduct the review by the date set by the Commission, the rules
50 contained in that Title which have not been reviewed will expire. The
51 Commission shall report to the Committee any agency that fails to conduct

1 the review. The Commission may exempt rules that have been adopted or
2 amended within the previous 10 years from the review required by this
3 section. However, any rule exempted on this basis must be reviewed in
4 accordance with this section no more than 10 years following the last time
5 the rule was amended.

6 (2) With regard to the readoption of rules as required by sub-subdivision (c)(2)g.
7 of this section, once the final determination report becomes effective, the
8 Commission shall establish a date by which the agency must readopt the
9 rules. The Commission shall consult with the agency and shall consider the
10 agency's rule-making priorities in establishing the readoption date. The
11 agency may amend a rule as part of the readoption process. If a rule is
12 readopted without substantive change, the agency is not required to prepare a
13 fiscal note as provided by G.S. 150B-21.4."
14

15 AUTHORIZE LICENSING BOARDS TO ADOPT RULES FOR PROFESSIONAL 16 CORPORATIONS

17 SECTION 1.10. G.S. 55B-12 reads as rewritten:

18 "§ 55B-12. Application of regulations of licensing boards.

19 (a) A professional corporation shall be subject to the applicable rules and regulations
20 adopted by, and all the disciplinary powers of, the licensing board as herein defined. Nothing in
21 this Chapter shall impair the disciplinary powers of any licensing board applicable to a licensee
22 as herein defined. No professional corporation may do any act which its shareholders as
23 licensees are prohibited from doing.

24 (b) Subject to the requirements of Article 2A of Chapter 150B of the General Statutes,
25 any licensing board subject to this Chapter may adopt rules to implement the provisions of this
26 Chapter, including any rules needed to establish fees within the limits set by this Chapter."
27

28 OCCUPATIONAL LICENSING BOARD REPORTING AMENDMENTS

29 SECTION 1.11. G.S. 93B-2 reads as rewritten:

30 "§ 93B-2. Annual reports required; contents; open to inspection; sanction for failure to
31 report.

32 (a) No later than October 31 of each year, each occupational licensing board shall file
33 electronically with the Secretary of State, the Attorney General, and the Joint ~~Regulatory~~
34 Reform Legislative Administrative Procedure Oversight Committee an annual report containing
35 all of the following information:

36 (1) The address of the board, and the names of its members and officers.

37 (1a) The total number of licensees supervised by the board.

38 (2) The number of persons who applied to the board for examination.

39 (3) The number who were refused examination.

40 (4) The number who took the examination.

41 (5) The number to whom initial licenses were issued.

42 (5a) The number who failed the examination.

43 (6) The number who applied for license by reciprocity or comity.

44 (7) The number who were granted licenses by reciprocity or comity.

45 (7a) The number of official complaints received involving licensed and
46 unlicensed activities.

47 (7b) The number of disciplinary actions taken against licensees, or other actions
48 taken against nonlicensees, including injunctive relief.

49 (8) The number of licenses suspended or revoked.

50 (9) The number of licenses terminated for any reason other than failure to pay
51 the required renewal fee.

1 (10) The substance of any anticipated request by the occupational licensing board
2 to the General Assembly to amend statutes related to the occupational
3 licensing board.

4 (11) The substance of any anticipated change in rules adopted by the
5 occupational licensing board or the substance of any anticipated adoption of
6 new rules by the occupational licensing board.

7 (b) No later than October 31 of each year, each occupational licensing board shall file
8 electronically with the Secretary of State, the Attorney General, the Office of State Budget and
9 Management, and the Joint ~~Regulatory Reform~~ Legislative Administrative Procedure Oversight
10 Committee a financial report that includes the source and amount of all funds credited to the
11 occupational licensing board and the purpose and amount of all funds disbursed by the
12 occupational licensing board during the previous fiscal year.

13 (c) The reports required by this section shall be open to public inspection.

14 (d) The Joint Legislative Administrative Procedure Oversight Committee shall notify
15 any board that fails to file the reports required by this section. Failure of a board to comply with
16 the reporting requirements of this section by October 31 of each year shall result in a
17 suspension of the board's authority to expend any funds until such time as the board files the
18 required reports. Suspension of a board's authority to expend funds under this subsection shall
19 not affect the board's duty to issue and renew licenses or the validity of any application or
20 license for which fees have been tendered in accordance with law. Each board shall adopt rules
21 establishing a procedure for implementing this subsection and shall maintain an escrow account
22 into which any fees tendered during a board's period of suspension under this subsection shall
23 be deposited."
24

25 OAH ELECTRONIC FILING

26 **SECTION 1.12.(a)** Article 3 of Chapter 150B of the General Statutes is amended
27 by adding a new section to read:

28 "**§ 150B-23.3. Electronic filing.**

29 (a) In addition to any other method specified in G.S. 150B-23, documents filed and
30 served in a contested case may be filed and served electronically by means of an Electronic
31 Filing Service Provider. For purposes of this section, the following definitions apply:

32 (1) Electronic filing means the electronic transmission of the petition, notice of
33 hearing, pleadings, or any other documents filed in a contested case with the
34 Office of Administrative Hearings, as further defined by rules adopted by the
35 Office of Administrative Hearings.

36 (2) Electronic Filing Service Provider (EFSP) means the service provided by the
37 Office of Administrative Hearings for e-filing and e-service of documents
38 via the Internet.

39 (3) Electronic service means the electronic transmission of the petition, notice of
40 hearing, pleadings, or any other documents in a contested case, as further
41 defined by rules adopted by the Office of Administrative Hearings."

42 **SECTION 1.12.(b)** This section is effective when it becomes law and applies to
43 contested cases filed on or after that date.
44

45 STATE BOARD OF EDUCATION RULEMAKING CLARIFICATION

46 **SECTION 1.13.(a)** G.S. 115C-12 reads as rewritten:

47 "**§ 115C-12. Powers and duties of the Board generally.**

48 The general supervision and administration of the free public school system shall be vested
49 in the State Board of Education. The State Board of Education shall establish policy for the
50 system of free public schools, subject to laws enacted by the General Assembly. The State
51 Board of Education is subject to Article 2A of Chapter 150B of the General Statutes. The State

1 Board of Education may not implement or enforce against any person a policy that meets the
2 definition of a rule contained in G.S. 150B-2(8a) if the policy has not been adopted as a rule in
3 accordance with Article 2A of Chapter 150B of the General Statutes. The powers and duties of
4 the State Board of Education are defined as follows:

5"

6 **SECTION 1.13.(b)** G.S. 150B-23 is amended by adding a new subsection to read:

7 "(a4) If an agency fails to take any required action within the time period specified by
8 law, any person whose rights are substantially prejudiced by the agency's failure to act may
9 commence a contested case in accordance with this section seeking an order that the agency act
10 as required by law. If the administrative law judge finds that the agency has failed to act as
11 required by law, the administrative law judge may order that the agency take the required
12 action within a specified time period."

13 **SECTION 1.13.(c)** G.S. 150B-44 reads as rewritten:

14 **"§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.**

15 ~~Unreasonable delay on the part of any agency or administrative law judge in taking any~~
16 ~~required action shall be justification for any person whose rights, duties, or privileges are~~
17 ~~adversely affected by such delay to seek a court order compelling action by the agency or~~
18 ~~administrative law judge. Failure of an administrative law judge subject to Article 3 of this~~
19 ~~Chapter or failure of an agency subject to Article 3A of this Chapter to make a final decision~~
20 ~~within 120 days of the close of the contested case hearing is justification for a person whose~~
21 ~~rights, duties, or privileges are adversely affected by the delay to seek a court order compelling~~
22 ~~action by the agency or by the administrative law judge.~~ ~~The Board of Trustees of the North~~
23 ~~Carolina State Health Plan for Teachers and State Employees is a "board" for purposes of this~~
24 ~~section."~~

25 **STREAMLINE RULE-MAKING PROCESS**

26 **SECTION 1.14.(a)** G.S. 150B-19.1(h) is repealed.

27 **SECTION 1.14.(b)** G.S. 150B-21.4 reads as rewritten:

28 **"§ 150B-21.4. Fiscal ~~notes~~ and regulatory impact analysis on rules.**

29 (a) State Funds. – Before an agency ~~adopts~~ publishes in the North Carolina Register the
30 proposed text of a permanent rule change that would require the expenditure or distribution of
31 funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the
32 text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on
33 the proposed rule change to the Office of State Budget and Management and obtain
34 certification from the Office of State Budget and Management that the funds that would be
35 required by the proposed rule change are available. ~~The agency shall submit the text of the~~
36 ~~proposed rule change, an analysis of the proposed rule change, and a fiscal note on the~~
37 ~~proposed rule change to the Office at the same time as the agency submits the notice of text for~~
38 ~~publication pursuant to G.S. 150B-21.2.~~ The fiscal note must state the amount of funds that
39 would be expended or distributed as a result of the proposed rule change and explain how the
40 amount was computed. The Office of State Budget and Management must certify a proposed
41 rule change if funds are available to cover the expenditure or distribution required by the
42 proposed rule change.

43 (a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section,
44 any agency that adopts a rule affecting environmental permitting of Department of
45 Transportation projects shall conduct an analysis to determine if the rule will result in an
46 increased cost to the Department of Transportation. The analysis shall be conducted and
47 submitted to the Board of Transportation when the agency submits the notice of text for
48 publication. The agency shall consider any recommendations offered by the Board of
49 Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the
50 Board of Transportation may submit any objection to the rule it may have to the Rules Review
51

1 Commission. If the Rules Review Commission receives an objection to a rule from the Board
2 of Transportation no later than 5:00 P.M. of the day following the day the Commission
3 approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

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

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

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

38 As used in this subsection, the term "substantial economic impact" means an aggregate
39 financial impact on all persons affected of at least one million dollars (\$1,000,000) in a
40 12-month period. In analyzing substantial economic impact, an agency shall do the following:

- 41 (1) Determine and identify the appropriate time frame of the analysis.
- 42 (2) Assess the baseline conditions against which the proposed rule is to be
43 measured.
- 44 (3) Describe the persons who would be subject to the proposed rule and the type
45 of expenditures these persons would be required to make.
- 46 (4) Estimate any additional costs that would be created by implementation of the
47 proposed rule by measuring the incremental difference between the baseline
48 and the future condition expected after implementation of the rule. The
49 analysis should include direct costs as well as opportunity costs. Cost
50 estimates must be monetized to the greatest extent possible. Where costs are
51 not monetized, they must be listed and described.

- 1 (5) For costs that occur in the future, the agency shall determine the net present
2 value of the costs by using a discount factor of seven percent (7%).
- 3 (b2) Content. – A fiscal note required by subsection (b1) of this section must contain the
4 following:
- 5 (1) A description of the persons who would be affected by the proposed rule
6 change.
- 7 (2) A description of the types of expenditures that persons affected by the
8 proposed rule change would have to make to comply with the rule and an
9 estimate of these expenditures.
- 10 (3) A description of the purpose and benefits of the proposed rule change.
- 11 (4) An explanation of how the estimate of expenditures was computed.
- 12 (5) A description of at least two alternatives to the proposed rule that were
13 considered by the agency and the reason the alternatives were rejected. The
14 alternatives may have been identified by the agency or by members of the
15 public.
- 16 (c) Errors. – An erroneous fiscal note prepared in good faith does not affect the validity
17 of a rule.
- 18 (d) If an agency proposes the repeal of an existing rule, the agency is not required to
19 prepare a fiscal note on the proposed rule change as provided by this section."

20 **SECTION 1.14.(c)** This section is effective when it becomes law and applies to
21 proposed rules published on or after that date.

22

23 **BURDEN OF PROOF IN CERTAIN CONTESTED CASES**

24 **SECTION 1.15.(a)** Article 3 of Chapter 150B of the General Statutes is amended
25 by adding a new section to read:

26 **"§ 150B-25.1. Burden of proof.**

27 (a) Except as otherwise provided by law or by this section, the petitioner in a contested
28 case has the burden of proving the facts alleged in the petition by a preponderance of the
29 evidence.

30 (b) In a contested case involving the imposition of civil fines or penalties by a State
31 agency for violation of the law, the burden of showing by a preponderance of the evidence that
32 the person who was fined actually committed the act for which the fine or penalty was imposed
33 rests with the State agency.

34 (c) The burden of showing by a preponderance of the evidence that a career State
35 employee subject to Chapter 126 of the General Statutes was discharged, suspended, or
36 demoted for just cause rests with the agency employer."

37 **SECTION 1.15.(b)** The Joint Legislative Administrative Procedure Oversight
38 Committee shall study whether there are other categories of contested cases in which the
39 burden of proof should be placed with the agency.

40 **SECTION 1.15.(c)** This section is effective when it becomes law and applies to
41 contested cases commenced on or after that date.

42

43 **LEGISLATIVE APPOINTMENTS**

44 **SECTION 1.16.(a)** G.S. 120-121 is amended by adding two new subsections to
45 read:

46 "(e) The following applies in any case where the Speaker of the House of
47 Representatives or the President Pro Tempore of the Senate is directed by law to make a
48 recommendation for an appointment by the General Assembly, and the legislator is also
49 directed to make the recommendation in consultation with or upon the recommendation of a
50 third party:

- 1 (1) The recommendation or consultation is discretionary and is not binding upon
2 the legislator.
3 (2) The third party must submit the recommendation or consultation at least 60
4 days prior to the expiration of the term or within 10 business days from the
5 occurrence of a vacancy.
6 (3) Failure by the third party to submit the recommendation or consultation to
7 the legislator within the time periods required under this subsection shall be
8 deemed a waiver by the third party of the opportunity.

9 (f) The following applies in any case where the Speaker of the House of
10 Representatives or the President Pro Tempore of the Senate is directed by law to make a
11 recommendation for an appointment by the General Assembly and the legislator is also directed
12 to make the recommendation from nominees provided by a third party:

- 13 (1) The third party must submit the nominees at least 60 days prior to the
14 expiration of the term or within 10 business days from the occurrence of a
15 vacancy.
16 (2) Failure by the third party to submit the nomination to the legislator within
17 the time periods required under this subsection shall be deemed a waiver by
18 the third party of the opportunity."

19 **SECTION 1.16.(b)** Article 16 of Chapter 120 of the General Statutes is amended
20 by adding a new section to read:

21 **"§ 120-124. Appointments made by legislators.**

22 (a) In any case where a legislator is called upon by law to appoint a member to a board
23 or commission upon the recommendation of or in consultation with a third party, the
24 recommendation or consultation is discretionary and is not binding upon the legislator. The
25 third party must submit the recommendation or consultation at least 60 days prior to the
26 expiration of the term or within 10 business days from the occurrence of a vacancy.

27 (b) In any case where a legislator is called upon by law to appoint a member to a board
28 or commission from nominees provided by a third party, the third party must submit the
29 nominees at least 60 days prior to the expiration of the term or within 10 business days from the
30 occurrence of a vacancy. This subsection does not apply to nominations made under
31 G.S. 120-99(a) or G.S. 120-100(b).

32 (c) Failure to submit the recommendation, consultation, or nomination within the time
33 periods required under this section shall be deemed a waiver by the third party of the
34 opportunity."

35 **SECTION 1.16.(c)** This section is effective when it becomes law and applies to
36 recommendations, consultations, and nominations made on or after that date.

37
38 **PART II. PERMITTING REFORMS**

39
40 **CAPSTONE PERMITTING**

41 **SECTION 2.1.** G.S. 150B-23 is amended by adding a new subsection to read:

42 **"§ 150B-23. Commencement; assignment of administrative law judge; hearing required;**
43 **notice; intervention.**

44 ...

45 (g) Where multiple licenses are required from an agency for a single activity, the
46 Secretary or chief administrative officer of the agency may issue a written determination that
47 the administrative decision reviewable under Article 3 of this Chapter occurs on the date the
48 last license for the activity is issued, denied, or otherwise disposed of. The written
49 determination of the administrative decision is not reviewable under this Article. Any licenses
50 issued for the activity prior to the date of the last license identified in the written determination
51 are not reviewable under this Article until the last license for the activity is issued, denied, or

1 otherwise disposed of. A contested case challenging the last license decision for the activity
2 may include challenges to agency decisions on any of the previous licenses required for the
3 activity."
4

5 **CONTESTED CASES FOR AIR QUALITY PERMITS**

6 **SECTION 2.2.** G.S. 143-215.108 reads as rewritten:

7 "**§ 143-215.108. Control of sources of air pollution; permits required.**

8 ...
9 (e) A permit ~~applicant, permittee, or third party~~applicant or permittee who is
10 dissatisfied with a decision of the Commission on a permit application may commence a
11 contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission
12 notifies the applicant or permittee of its decision. If the permit ~~applicant, permittee, or third~~
13 ~~party~~applicant or permittee does not file a petition within the required time, the Commission's
14 decision on the application is final and is not subject to review. The filing of a petition under
15 this subsection will stay the Commission's decision until resolution of the contested case.

16 (e1) A person other than a permit applicant or permittee who is a person aggrieved by
17 the Commission's decision on a permit application may commence a contested case by filing a
18 petition under G.S. 150B-23 within 30 days after the Commission provides notice of its
19 decision on a permit application, as provided in G.S. 150B-23(f), or by posting the decision on
20 a publically available Web site. "Substantial prejudice" to the petitioner in a contested case
21 filed under this subsection means the exceedance of a national ambient air quality standard.
22 The filing of a petition under this subsection does not stay the Commission's decision except as
23 ordered by the administrative law judge under G.S. 150B-33(b).

24"
25

26 **CLOSURE OF CERTAIN ANIMAL WASTE CONTAINMENT BASINS**

27 **SECTION 2.3.** Part 1A of Article 21 of Chapter 143 of the General Statutes is
28 amended by adding a new section to read:

29 "**§ 143-215.10J Closure of certain animal waste containment basins.**

30 (a) The Department shall consider any waste containment basin to be a fresh water
31 storage facility meeting all requirements for closure under 15A NCAC 02T. 1306 if the owner
32 of the basin demonstrates to the satisfaction of the Department that the basin meets all of the
33 following requirements:

34 (1) The basin has been used only for the containment of dairy cattle waste.

35 (2) The basin was constructed prior to 2006.

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

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

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

41 (b) The Department shall provide written notification to the owner of a basin meeting
42 the requirements of subsection (a) of this section that the basin is no longer considered an
43 animal waste management system."
44

45 **CONTESTED CASES FOR CAMA PERMITS**

46 **SECTION 2.4.** G.S. 113A-121.1 reads as rewritten:

47 "**§ 113A-121.1. Administrative review of permit decisions.**

48 (a) An applicant for a minor or major development permit who is dissatisfied with the
49 decision on his application may file a petition for a contested case hearing under G.S. 150B-23
50 within 20 days after the decision is made. When a local official makes a decision to grant or

1 deny a minor development permit and the Secretary is dissatisfied with the decision, the
2 Secretary may file a petition for a contested case within 20 days after the decision is made.

3 (b) A person other than a permit applicant or the Secretary who is dissatisfied with a
4 decision to deny or grant a minor or major development permit may file a petition for a
5 contested case hearing only if the Commission determines that a hearing is appropriate. A
6 request for a determination of the appropriateness of a contested case hearing shall be made in
7 writing and received by the Commission within 20 days after the disputed permit decision is
8 made. A determination of the appropriateness of a contested case shall be made within 15 days
9 after a request for a determination is received and shall be based on whether the person seeking
10 to commence a contested case:

- 11 (1) Has alleged that the decision is contrary to a statute or rule;
- 12 (2) Is directly affected by the decision; and
- 13 (3) Has alleged facts or made legal arguments that demonstrate that the request
14 for the hearing is not frivolous.

15 If the Commission determines a contested case is appropriate, the petition for a contested
16 case shall be filed within 20 days after the Commission makes its determination. A
17 determination that a person may not commence a contested case is a final agency decision and
18 is subject to judicial review under Article 4 of Chapter 150B of the General Statutes. If, on
19 judicial review, the court determines that the Commission erred in determining that a contested
20 case would not be appropriate, the court shall remand the matter for a contested case hearing
21 under G.S. 150B-23 and final decision on the permit pursuant to G.S. 113A-122. Decisions in
22 such cases shall be rendered pursuant to those rules, regulations, and other applicable laws in
23 effect at the time of the commencement of the contested case.

24 (c) ~~A-When the applicant seeks administrative review of a decision concerning a permit~~
25 ~~under subsection (a) of this section, the permit is suspended from the time a person seeks~~
26 ~~administrative review of the decision concerning the permit until the Commission determines~~
27 ~~that the person seeking the review cannot commence a contested case or the Commission~~
28 ~~makes a final decision in a-the contested case, as appropriate, case, and no action may be taken~~
29 ~~during that time that would be unlawful in the absence of a permit.~~

30 (d) A permit challenged under subsection (b) of this section remains in effect unless a
31 stay is issued by the administrative law judge as set forth in G.S. 150B-33 or by a reviewing
32 court as set forth in G.S. 150B-48."
33

34 GUBERNATORIAL ENVIRONMENTAL PERMIT WAIVER AUTHORITY

35 SECTION 2.5.(a) G.S. 166A-19.30(a) reads as rewritten:

36 "§ 166A-19.30. Additional powers of the Governor during state of emergency.

37 (a) In addition to any other powers conferred upon the Governor by law, during a
38 gubernatorially or legislatively declared state of emergency, the Governor shall have the
39 following powers:

- 40 (1) To utilize all available State resources as reasonably necessary to cope with
41 an emergency, including the transfer and direction of personnel or functions
42 of State agencies or units thereof for the purpose of performing or
43 facilitating emergency services.
- 44 (2) To take such action and give such directions to State and local law
45 enforcement officers and agencies as may be reasonable and necessary for
46 the purpose of securing compliance with the provisions of this Article and
47 with the orders, rules, and regulations made pursuant thereto.
- 48 (3) To take steps to assure that measures, including the installation of public
49 utilities, are taken when necessary to qualify for temporary housing
50 assistance from the federal government when that assistance is required to
51 protect the public health, welfare, and safety.

1 (4) Subject to the provisions of the State Constitution to relieve any public
2 official having administrative responsibilities under this Article of such
3 responsibilities for willful failure to obey an order, rule, or regulation
4 adopted pursuant to this Article.

5 (5) Through issuance of an executive order, to waive requirements for an
6 environmental document or permit issued under Articles 1, 4, and 7 of
7 Chapter 113A of the General Statutes for the repair, protection, safety
8 enhancement, or replacement of a component of the State highway system
9 that provides the sole road access to an incorporated municipality or an
10 unincorporated inhabited area bordering the Atlantic Ocean or any coastal
11 sound, where bridge or road conditions as a result of the events leading to
12 the declaration of the state of emergency pose a substantial risk to public
13 health, safety, or welfare. The executive order shall list the duration of the
14 waiver and the activities to which the waiver applies. For purposes of this
15 subdivision, "coastal sound" shall have the definition set forth in
16 G.S. 113A-103, and "replacement" shall not be interpreted to exclude a
17 replacement that increases size or capacity or that is located in a different
18 location than the component that is replaced."

19 **SECTION 2.5.(b)** G.S. 113A-12 is amended by adding a new subdivision to read:

20 "(7) The issuance of an executive order under G.S. 166A-19.30(a)(5) waiving the
21 requirement for an environmental document."

22 **SECTION 2.5.(c)** G.S. 113A-52.01 reads as rewritten:

23 **"§ 113A-52.01. Applicability of this Article.**

24 This Article shall not apply to the following land-disturbing activities:

25 ...

26 (4) For the duration of an emergency, activities essential to protect human
27 life-life, including activities specified in an executive order issued under
28 G.S. 166A-19.30(a)(5)."

29 **SECTION 2.5.(d)** G.S. 113A-103(5) reads as rewritten:

30 **"§ 113A-103. Definitions.**

31 As used in this Article:

32 ...

33 (5) a. "Development" means any activity in a duly designated area of
34 environmental concern (except as provided in paragraph b of this
35 subdivision) involving, requiring, or consisting of the construction or
36 enlargement of a structure; excavation; dredging; filling; dumping; removal
37 of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings;
38 clearing or alteration of land as an adjunct of construction; alteration or
39 removal of sand dunes; alteration of the shore, bank, or bottom of the
40 Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or
41 placement of a floating structure in an area of environmental concern
42 identified in G.S. 113A-113(b)(2) or (b)(5).

43 b. The following activities including the normal and incidental
44 operations associated therewith shall not be deemed to be
45 development under this section:

- 46 1. Work by a highway or road agency for the maintenance of an
47 existing road, if the work is carried out on land within the
48 boundaries of the existing ~~right-of-way;~~ right-of-way, or for
49 emergency repairs and safety enhancements of an existing
50 road as described in an executive order issued under
51 G.S. 166A-19.30(a)(5).

1"

2
3 **FEE ROLLBACK FOR OYSTER PERMITS UNDER PRIVATE DOCKS**

4 **SECTION 2.6.(a)** Subsections (l) and (m) of G.S. 113-210 are repealed.

5 **SECTION 2.6.(b)** This section becomes effective July 1, 2014.

6
7 **LOCAL GOVERNMENT LEASES FOR RENEWABLE ENERGY FACILITIES**

8 **SECTION 2.7.** G.S. 160A-272 reads as rewritten:

9 "**§ 160A-272. Lease or rental of property.**

10 ...

11 (c) The council may approve a lease for the siting and operation of a renewable energy
12 facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to ~~20~~25 years without
13 treating the lease as a sale of property and without giving notice by publication of the intended
14 lease. ~~This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of~~
15 ~~Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill,~~
16 ~~Fuquay-Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest,~~
17 ~~Wendell, and Zebulon only."~~

18
19 **CLOSING-OUT SALES**

20 **SECTION 2.8.** G.S. 66-77 reads as rewritten:

21 "**§ 66-77. License required; contents of applications; inventory required; fees; bond;**
22 **extension of licenses; records; false statements.**

23 (a) No person shall advertise or offer for sale a stock of goods, wares or merchandise
24 under the description of closing-out sale, or a sale of goods, wares or merchandise damaged by
25 fire, smoke, water or otherwise, or a distress sale unless he shall have obtained a license to
26 conduct such sale from the ~~clerk of the~~officer designated by the governing board of the city or
27 town in which he proposes to conduct such a sale or from the officer designated by the Board
28 of County Commissioners if the sale is conducted in an unincorporated area. The applicant for
29 such a license shall make to ~~such clerk~~the designated officer an application therefor, in writing
30 and under oath at least seven days prior to the opening date of sale, showing all the facts
31 relating to the reasons and character of such sale, including the opening and terminating dates
32 of the proposed sale, the opening and terminating dates of any previous distress sale or
33 closing-out sale held by the applicant within that county during the preceding 12 months, a
34 complete inventory of the goods, wares or merchandise actually on hand in the place ~~whereat~~
35 ~~such~~where the sale is to be conducted, and all details necessary to locate exactly and identify
36 fully the goods, wares or merchandise to be sold. Provided, the seller in a distress sale need not
37 file an inventory.

38 (b) If ~~such clerk~~the designated officer shall be satisfied from said application that the
39 proposed sale is of the character which the applicant desires to advertise and conduct, the ~~clerk~~
40 designated officer shall issue a license, upon the payment of a fee of fifty dollars (\$50.00)
41 therefor, together with a bond, payable to the city or town or county in the penal sum of five
42 hundred dollars (\$500.00), conditioned upon compliance with this Article, to the applicant
43 authorizing him to advertise and conduct a sale of the particular kind mentioned in the
44 application. The license fee provided for herein shall be good for a period of 30 days from its
45 date, and if the applicant shall not complete said sale within said 30-day period then the
46 applicant shall make application to ~~such clerk~~the designated officer for a license for a new
47 permit, which shall be good for an additional period of 30 days, and shall pay therefor the sum
48 of fifty dollars (\$50.00), and a second extension period of 30 days may be similarly applied for
49 and granted by the ~~clerk~~designated officer upon payment of an additional fee of fifty dollars
50 (\$50.00) and upon the ~~clerk~~designated officer being satisfied that the applicant is holding a
51 bona fide sale of the kind contemplated by this Article and is acting in a bona fide manner;

1 provided, however, that the ~~clerk~~-designated officer may not grant an extension period as
2 provided in this subsection if (i) the applicant conducted a distress sale immediately preceding
3 the current sale for which the extension is applied for and (ii) the period of the extension
4 applied for, when added to the period of the preceding sale and the period of the current sale,
5 will exceed 120 days. No additional bond shall be required in the event of one or more
6 extensions as herein provided for. Any merchant who shall have been conducting a business in
7 the same location where the sale is to be held for a period of not less than one year, prior to the
8 date of holding such sale, or any merchant who shall have been conducting a business in one
9 location for such period but who shall, by reason of the building being untenable or by
10 reason of the fact that said merchant shall have no existing lease or ownership of the building
11 and shall be forced to hold such sale at another location, shall be exempted from the payment
12 of the fees and the filing of the bond herein provided for.

13"

14 PERMIT CHOICE

15 SECTION 2.9.(a) Chapter 143 of the General Statutes is amended by adding a new
16 Article to read:

17 "Article 80.

18 "Permit Choice.

19 "§ 143-750. Permit choice.

20 If a permit applicant submits a permit for any type of development and a rule or ordinance
21 changes between the time the permit application was submitted and a permit decision is made,
22 the permit applicant may choose which version of the rule or ordinance will apply to the
23 permit. This section applies to all development permits issued by the State and by local
24 governments."
25

26 SECTION 2.9.(b) This section is effective when it becomes law and applies to
27 permits for which a permit decision has not been made by that date.

28 PART III. REGULATORY AND STATUTORY MODIFICATIONS

29 REGULATION OF IMPACT TO ISOLATED WETLANDS

30 SECTION 3.1.(a) Until the effective date of the revised permanent rule that the
31 Environmental Management Commission is required to adopt pursuant to subsection (c) of this
32 section, the Commission and the Department of Environment and Natural Resources shall
33 implement 15A NCAC 02H .1305 (Review of Applications) as provided in subsection (c) of
34 this section.
35

36 SECTION 3.1.(b) Notwithstanding 15A NCAC 02H .1305 (Review of
37 Applications), both of the following shall apply to the implementation of 15A NCAC 02H
38 .1305:
39

40 (1) The amount of impacts of isolated wetlands under 15A NCAC 02H
41 .1305(d)(2) shall be less than or equal to 1 acre of isolated wetlands for the
42 entire project.

43 (2) The mitigation ratio under 15A NCAC 02H .1305(g)(6) shall be 1:1.

44 SECTION 3.1.(c) The Environmental Management Commission shall adopt a rule
45 to amend 15A NCAC 02H .1305 (Review of Applications) consistent with subsection (b) of
46 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to
47 this section shall be substantively identical to the provisions of subsection (b) of this section.
48 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B
49 of the General Statutes. Rules adopted pursuant to this section shall become effective as
50 provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as
51 provided by G.S. 150B-21.3(b2).

1 **SECTION 3.1.(d)** The Department of Environment and Natural Resources shall
2 study the surface area thresholds for the regulation of mountain bog isolated wetlands,
3 including whether mountain bog isolated wetlands should have surface area regulatory
4 thresholds different from other types of isolated wetlands. The Department shall report its
5 findings and recommendations to the Environmental Review Commission on or before
6 November 1, 2014.

7 **SECTION 3.1.(e)** Subsection (b) of this section expires on the date that rules
8 adopted pursuant to subsection (c) of this section become effective.

10 **COMMUNITY COLLEGE BREWING COURSE WAIVER**

11 **SECTION 3.2.(a)** Article 11 of Chapter 18B of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 18B-1114.6. Brewing, Distillation, and Fermentation course authorization.**

14 (a) Authorization. – The holder of a brewing, distillation, and fermentation course
15 authorization may:

16 (1) Manufacture malt beverages on the school's campus or the school's
17 contracted or leased property for the purpose of providing instruction and
18 education on the making of malt beverages.

19 (2) Possess malt beverages manufactured during the brewing, distillation, and
20 fermentation program for the purpose of conducting malt beverage tasting
21 seminars and classes for students who are 21 years of age or older.

22 (3) Sell malt beverages produced during the course to wholesalers or to retailers
23 upon obtaining a malt beverages wholesaler permit under G.S. 18B-1109,
24 except that the permittee may not receive shipments of malt beverages from
25 other producers.

26 (4) Sell malt beverages produced during the course, upon obtaining a permit
27 under G.S. 18B-1001(2).

28 (b) Limitation. – Authorization for a brewing, distillation, and fermentation course shall
29 be granted by the Commission only for a community college or college that offers a brewing,
30 distillation, and fermentation program as a part of its curriculum offerings for students of the
31 school. For purposes of this section, the term "brewing, distillation, and fermentation program"
32 includes a fermentation sciences program offered by a community college or college as part of
33 its curriculum offerings for students of the school.

34 (c) Malt Beverage Special Event Permit. – The holder of a brewing, distillation, and
35 fermentation course authorization who obtains a malt beverages wholesaler permit under
36 G.S. 18B-1109 subject to the limitation in subsection (a) of this section may obtain a malt
37 beverage special event permit under G.S. 18B-1114.5 and where the permit is valid may
38 participate in approved events and sell at retail at those events any malt beverages produced
39 incident to the operation of the brewing, distillation, and fermentation program. The holder of a
40 brewing, distillation, and fermentation course authorization may participate in not more than
41 six malt beverage special events within a 12-month period and may sell up to 64 cases of malt
42 beverages, or the equivalent volume of 64 cases of malt beverages, at each event. For purposes
43 of this subsection, a "case of malt beverages" is a package containing not more than 24
44 12-ounce bottles of malt beverage. Net proceeds from the program's retail sale of malt
45 beverages pursuant to this subsection shall be retained by the school and used for support of the
46 brewing, distillation, and fermentation program.

47 (d) Limited Application. – The holder of a brewing, distillation, and fermentation
48 course authorization shall not be considered a brewery for the purposes of this Chapter or
49 Chapter 105 of the General Statutes."

50 **SECTION 3.2.(b)** G.S. 18B-1114.5(a) reads as rewritten:

1 "(a) Authorization. – The holder of a ~~brewery~~brewery permit, a malt beverage
 2 ~~importer~~beverages importer permit, a brewing, distillation, and fermentation course
 3 authorization, or a nonresident malt beverage vendor permit may obtain a malt beverage special
 4 event permit allowing the permittee to give free tastings of its malt beverages and to sell its
 5 malt beverages by the glass or in closed containers at trade shows, conventions, shopping
 6 malls, malt beverage festivals, street festivals, holiday festivals, agricultural festivals, balloon
 7 races, local fund-raisers, and other similar events approved by the Commission. Except for a
 8 brewery operating under the provisions of G.S. 18B-1104(7), all malt beverages sampled or
 9 sold pursuant to this section must be purchased from a licensed malt beverages wholesaler."

10 **SECTION 3.2.(c)** G.S. 18B-1001(2) reads as rewritten:

11 "**§ 18B-1001. Kinds of ABC permits; places eligible.**

12 When the issuance of the permit is lawful in the jurisdiction in which the premises are
 13 located, the Commission may issue the following kinds of permits:

14 ...

15 (2) Off-Premises Malt Beverage Permit. – An off-premises malt beverage
 16 permit authorizes (i) the retail sale of malt beverages in the manufacturer's
 17 original container for consumption off the premises, (ii) the retail sale of
 18 malt beverages in a cleaned, sanitized, resealable container as defined in 4
 19 NCAC 2T.0308(a) that is filled or refilled and sealed for consumption off
 20 the premises, complies with 4 NCAC 2T.0303, 4 NCAC 2T.0305, and 4
 21 NCAC 2T.0308(d)-(e), and the container identifies the permittee and the
 22 date the container was filled or refilled, and (iii) the holder of the permit to
 23 ship malt beverages in closed containers to individual purchasers inside and
 24 outside the State. The permit may be issued for any of the following:

25 a. ~~Restaurants;~~Restaurants.

26 b. ~~Hotels;~~Hotels.

27 c. ~~Eating establishments;~~establishments.

28 d. ~~Food businesses;~~businesses.

29 e. Retail businesses.

30 f. The holder of a brewing, distillation, and fermentation course
 31 authorization under G.S. 18B-1114.6. A school obtaining a permit
 32 under this subdivision is authorized to sell malt beverages
 33 manufactured during its brewing, distillation, and fermentation
 34 program at one noncampus location in a county where the permittee
 35 holds and offers classes on a regular full-time basis in a facility
 36 owned by the permittee.

37 "

38 **SECTION 3.2.(d)** G.S. 66-58(c)(1a) reads as rewritten:

39 "**§ 66-58. Sale of merchandise or services by governmental units.**

40 ...

41 (c) The provisions of subsection (a) shall not prohibit:

42 ...

43 (1a) The sale of products raised or produced incident to the operation of a
 44 community college or college viticulture/enology program as authorized by
 45 G.S. 18B-1114.4.G.S. 18B-1114.4 or the operation of a community college
 46 or college brewing, distillation, or fermentation program as authorized by
 47 G.S. 18B-1114.6.

48 "

50 **CARBON MONOXIDE ALARMS**

51 **SECTION 3.3.(a)** Section 19(c) of Session Law 2013-413 is repealed.

1 **SECTION 3.3.(b)** Section 19(e) of Session Law 2013-413 reads as rewritten:

2 "**SECTION 19.(e)** This section is effective when it becomes law, except that ~~(i) subsection~~
3 ~~(b) of this section becomes effective October 1, 2013, and expires October 1, 2014; and (ii)~~
4 ~~subsection (c) of this section becomes effective October 1, 2014.~~subsection (b) of this section
5 becomes effective October 1, 2013."

6 **SECTION 3.3.(c)** G.S. 143-138(b2) reads as rewritten:

7 "(b2) Carbon Monoxide ~~Detectors.~~Alarms. – The Code (i) may contain provisions
8 requiring the installation of either battery-operated or electrical carbon monoxide
9 ~~detectors~~alarms in every dwelling unit having a ~~fossil fuel burning~~combustion heater,
10 appliance, or fireplace, and in any dwelling unit having an attached garage and (ii) shall contain
11 provisions requiring the installation of electrical carbon monoxide ~~detectors~~alarms at a lodging
12 establishment. The Building Code Council may require carbon monoxide alarms in dwelling
13 units with no combustion heater, appliance, or fireplace other than a wood-burning fireplace
14 only upon (i) a finding by the Council that carbon monoxide emissions from wood-burning
15 fireplaces constitute a substantial threat to public health and safety and (ii) a report by the
16 Council to the Joint Legislative Commission on Government Operations that provides the basis
17 for the Council's finding of a substantial threat to public health and safety. Violations of this
18 subsection and rules adopted pursuant to this subsection shall be punishable in accordance with
19 subsection (h) of this section and G.S. 143-139. In particular, the rules shall provide:

20 (1) For dwelling units, carbon monoxide ~~detectors~~alarms shall be those listed by
21 a nationally recognized testing laboratory that is OSHA-approved to test and
22 certify to American National Standards Institute/Underwriters Laboratories
23 Standards ANSI/UL2034 or ANSI/UL2075 and shall be installed in
24 accordance with either the standard of the National Fire Protection
25 Association or the minimum protection designated in the manufacturer's
26 instructions, which the property owner shall retain or provide as proof of
27 compliance. A carbon monoxide ~~detector~~alarm may be combined with
28 smoke detectors if the combined ~~detector~~alarm does both of the following:
29 (i) complies with ANSI/UL2034 or ANSI/UL2075 for carbon monoxide
30 alarms and ANSI/UL217 for smoke detectors; and (ii) emits an alarm in a
31 manner that clearly differentiates between detecting the presence of carbon
32 monoxide and the presence of smoke.

33 (2) For lodging establishments, including tourist homes that provide
34 accommodations for seven or more continuous days (extended stay
35 establishments), and bed and breakfast inns and bed and breakfast homes as
36 defined in G.S. 130A-247, carbon monoxide ~~detectors~~alarms shall be
37 installed in every ~~enclosed space~~dwelling unit or sleeping unit having a
38 ~~fossil fuel burning~~combustion heater, appliance, or fireplace and in ~~any~~
39 ~~enclosed space, including a sleeping room,~~every dwelling unit or sleeping
40 unit that shares a common wall, floor, or ceiling with an enclosed space with
41 a room having a combustion~~fossil fuel burning~~ heater, appliance, or
42 fireplace. Carbon monoxide ~~detectors~~alarms shall be (i) listed by a nationally
43 recognized testing laboratory that is ~~OSHA approved~~approved to test and
44 certify to American National Standards Institute/Underwriters Laboratories
45 (ANSI/UL) Standards ANSI/UL2034 or ANSI/UL2075, (ii) installed in
46 accordance with either the standard of the National Fire Protection
47 Association (NFPA) or the minimum protection designated in the
48 manufacturer's instructions, which the lodging establishment shall retain or
49 provide as proof of compliance, (iii) receive primary power from the
50 building's wiring, where such wiring is served from a commercial source,
51 and (iv) receive power from a battery when primary power is interrupted. A

1 carbon monoxide ~~detector~~alarms may be combined with smoke detectors if
2 the combined ~~detector~~alarm complies with the requirements of this
3 subdivision for carbon monoxide alarms and ANSI/UL217 for smoke
4 ~~detectors~~alarms. In lieu of the carbon monoxide alarms required by this
5 subsection, a carbon monoxide detection system, which includes carbon
6 monoxide detectors and audible notification appliances installed and
7 maintained in accordance with NFPA 720 shall be permitted. The carbon
8 monoxide detectors shall be listed as complying with ANSI/UL2075. For
9 purposes of this subsection, "lodging establishment" means any hotel, motel,
10 tourist home, or other establishment permitted under authority of
11 G.S. 130A-248 to provide lodging accommodations for pay to the
12 ~~public~~public, and "combustion heater, appliance, or fireplace" means any
13 heater, appliance, or fireplace that burns combustion fuels, including, but not
14 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
15 coal, for heating, cooking, drying, or decorative purposes, including, but not
16 limited to, space heaters, wall and ceiling heaters, ranges, ovens, stoves,
17 furnaces, fireplaces, water heaters, and clothes dryers. For purposes of this
18 subsection, candles and canned fuels are not considered to be combustion
19 appliances.

20 (3) The Building Code Council shall modify the NC State Building Code (Fire
21 Prevention) to regulate the provisions of this subsection in new and existing
22 lodging establishments, including hotels, motels, tourist homes that provide
23 accommodations for seven or more continuous days (extended stay
24 establishments), and bed and breakfast inns and bed and breakfast homes as
25 defined in G.S. 130A-247; provided, nothing in this subsection shall prevent
26 the Building Code Council from establishing more stringent rules regulating
27 carbon monoxide alarms or detectors for new lodging establishments,
28 including hotels, motels, tourist homes that provide accommodations for
29 seven or more continuous days (extended stay establishments), and bed and
30 breakfast inns and bed and breakfast homes as defined in G.S. 130A-247.
31 The Building Code Council shall modify the NC State Building Code (Fire
32 Prevention) minimum inspection schedule to include annual inspections of
33 new and existing lodging establishments, including hotels, motels, and
34 tourist homes that provide accommodations for seven or more continuous
35 days (extended stay establishments), and bed and breakfast inns and bed and
36 breakfast homes as defined in G.S. 130A-247 for the purpose of compliance
37 with this subsection.

38 (4) Upon discovery of a violation of this subsection that poses an imminent
39 hazard and that is not corrected during an inspection of a lodging
40 establishment subject to the provisions of G.S. 130A-248, the code official
41 responsible for enforcing the NC State Building Code (Fire Prevention) shall
42 immediately notify the local health director, or the director's designee, for
43 the county in which the violation was discovered by verbal contact and shall
44 also submit a written report documenting the violation of this subsection to
45 the local health director, or the director's designee, for the county in which
46 the violation was discovered on the next working day following the
47 discovery of the violation. Within one working day of receipt of the written
48 report documenting a violation of this subsection, the local health director,
49 or the director's designee, for the county in which the violation was
50 discovered shall investigate and take appropriate action regarding the permit
51 for the lodging establishment, as provided in G.S. 130A-248. Lodging

1 establishments having five or more rooms that are exempted from the
2 requirements of G.S. 130A-248 by G.S. 130A-250 shall be subject to the
3 penalties set forth in the NC State Building Code (Fire Prevention).

4 (5) Upon discovery of a violation of this subsection that does not pose an
5 imminent hazard and that is not corrected during an inspection of a lodging
6 establishment subject to the provisions of G.S. 130A-248, the owner or
7 operator of the lodging establishment shall have a correction period of three
8 working days following the discovery of the violation to notify the code
9 official responsible for enforcing the NC State Building Code (Fire
10 Prevention) verbally or in writing that the violation has been corrected. If the
11 code official receives such notification, the code official may reinspect the
12 portions of the lodging establishment that contained violations, but any fees
13 for reinspection shall not exceed the fee charged for the initial inspection. If
14 the code official receives no such notification, or if the results of a
15 reinspection reveal that previous violations were not corrected, the code
16 official shall submit a written report documenting the violation of this
17 subsection to the local health director, or the director's designee, for the
18 county in which the violation was discovered within three working days
19 following the termination of the correction period or the reinspection,
20 whichever is later. The local health director shall investigate and may take
21 appropriate action regarding the permit for the lodging establishment, as
22 provided in G.S. 130A-248. Lodging establishments having five or more
23 rooms that are exempted from the requirements of G.S. 130A-248 by
24 G.S. 130A-250 shall be subject to the penalties set forth in the NC State
25 Building Code (Fire Prevention)."

26 **SECTION 3.3.(d)** G.S. 130A-248 reads as rewritten:

27 **"§ 130A-248. Regulation of food and lodging establishments.**

28 ...

29 (b) No establishment shall commence or continue operation without a permit or
30 transitional permit issued by the Department. The permit or transitional permit shall be issued
31 to the owner or operator of the establishment and shall not be transferable. If the establishment
32 is leased, the permit or transitional permit shall be issued to the lessee and shall not be
33 transferable. If the location of an establishment changes, a new permit shall be obtained for the
34 establishment. A permit shall be issued only when the establishment satisfies all of the
35 requirements of the ~~rules and the requirements of subsection (g) of this section.~~rules. The
36 Commission shall adopt rules establishing the requirements that must be met before a
37 transitional permit may be issued, and the period for which a transitional permit may be issued.
38 The Department may also impose conditions on the issuance of a permit or transitional permit
39 in accordance with rules adopted by the Commission. A permit or transitional permit shall be
40 immediately revoked in accordance with G.S. 130A-23(d) for failure of the establishment to
41 maintain a minimum grade of C. A permit or transitional permit may otherwise be suspended or
42 revoked in accordance with G.S. 130A-23.

43 ...

44 (g) All hotels, motels, tourist homes, and other establishments that provide lodging for
45 pay shall ~~install either a battery operated or electrical carbon monoxide detector in every~~
46 ~~enclosed space having a fossil fuel burning heater, appliance, or fireplace and in any enclosed~~
47 ~~space, including a sleeping room, that shares a common wall, floor, or ceiling with an enclosed~~
48 ~~space having a fossil fuel burning heater, appliance, or fireplace. Carbon monoxide detectors~~
49 ~~shall be listed by a nationally recognized testing laboratory that is OSHA approved to test and~~
50 ~~certify to American National Standards Institute/Underwriters Laboratories Standards~~
51 ~~ANSI/UL2034 or ANSI/UL2075, and installed in accordance with either the standard of the~~

1 ~~National Fire Protection Association or the minimum protection designated in the~~
2 ~~manufacturer's instructions, which the establishment shall retain or provide as proof of~~
3 ~~compliance. A carbon monoxide detector may be combined with smoke detectors if the~~
4 ~~combined detector complies with the requirements of this subdivision for carbon monoxide~~
5 ~~alarms and ANSI/UL217 for smoke detectors.~~comply with the requirements of
6 G.S. 143-138(b2)(2). Upon notification of a violation of G.S. 143-138(b2)(2) by the code
7 official responsible for enforcing the NC State Building Code (Fire Prevention) in accordance
8 with G.S. 143-138(b2)(4), the local health department is authorized to suspend a permit issued
9 pursuant to this section in accordance with G.S. 130A-23."

10 11 **WATER SUPPLY WATERSHED CLASSIFICATIONS**

12 **SECTION 3.4.(a)** G.S. 143-214.5 is amended by adding a new subsection to read:

13 "(c1) This subsection applies to water supply watersheds reclassified by the Commission
14 after January 1, 2012. When the Commission receives a rule-making petition under
15 G.S. 150B-20 that (i) is from a unit of local government with jurisdiction over an area affected
16 by a proposed water intake that is impacted by a reclassification to which this subsection
17 applies and (ii) requests repeal of the reclassification, the Commission shall grant the
18 rule-making petition, and the reclassification as well as any local ordinance changes required
19 under subsection (d) of this section shall be stayed until the Commission has promulgated rules
20 in response to the rule-making petition that are retroactive to the effective date of the original
21 water supply watershed reclassification."

22 **SECTION 3.4.(b)** Notwithstanding any other provision of law, a unit of local
23 government shall repeal local ordinance changes required in order to implement a water supply
24 watershed reclassification to which G.S. 143-214.5(c1), as enacted by subsection (a) of this
25 section, applies. Local governments shall repeal local ordinances as required by this section on
26 or before the date that rules adopted pursuant to G.S. 143-214.5(c1), as enacted by subsection
27 (a) of this section, become effective.

28 **SECTION 3.4.(c)** This section is effective when it becomes law and applies to any
29 petitions for rule making regarding water supply watershed reclassifications received by the
30 Environmental Management Commission on or after January 1, 2013, and prior to January 1,
31 2014. Subsection (a) of this section expires when the Commission issues permanent rules in
32 response to a rule-making petition under G.S. 143-214.5(c1), as enacted by subsection (a) of
33 this section.

34 35 **ADA REQUIREMENTS FOR PRIVATE POOLS**

36 **SECTION 3.5.(a)** Notwithstanding Section 1109.14 of the 2012 NC State Building
37 Code (Building Code), swimming pools shall be required to be accessible only to the extent
38 required by the Americans with Disabilities Act, 42 U.S.C. § 12101 et. seq., and federal rules
39 and regulations adopted pursuant to that act.

40 **SECTION 3.5.(b)** The Building Code Council shall adopt a rule to amend Section
41 1109.14 of the 2012 NC State Building Code (Building Code) consistent with Section 3.5(a) of
42 this act.

43 **SECTION 3.5.(c)** Section 3.5(a) of this section expires on the date that the rule
44 adopted pursuant to Section 3.5(b) of this section becomes effective.

45 46 **ENVIRONMENTAL SELF AUDIT PRIVILEGE AND LIMITED IMMUNITY**

47 **SECTION 3.6.(a)** Chapter 8 of the General Statutes is amended by adding a new
48 Article to read:

49 "Article 7D.

50 "Environmental Audit Privilege and Limited Immunity.

51 "§ 8-58.50. Purpose.

1 (a) In order to encourage owners and operators of facilities and persons conducting
2 activities regulated under those portions of the General Statutes set forth in G.S. 8-58.52, or
3 conducting activities regulated under other environmental laws, to conduct voluntary internal
4 environmental audits of their compliance programs and management systems and to assess and
5 improve compliance with statutes, an environmental audit privilege is recognized to protect the
6 confidentiality of communications relating to voluntary internal environmental audits.

7 (b) Notwithstanding any other provisions of law, nothing in this Article shall be
8 construed to protect owners and operators of facilities and regulated persons from a criminal
9 investigation or prosecution carried out by any appropriate governmental entity.

10 (c) Notwithstanding any other provision of law, any privilege granted by this Article
11 shall apply only to those communications, oral or written, pertaining to and made in connection
12 with the environmental audit and shall not apply to the facts relating to the violation itself.

13 **§ 8-58.51. Definitions.**

14 The following definitions apply in this Article:

15 (1) "Department" means the Department of Environment and Natural Resources.

16 (2) "Environmental audit" means a voluntary, internal evaluation or review of
17 one or more facilities or an activity at one or more facilities regulated under
18 federal, State, regional, or local environmental law, or of compliance
19 programs, or management systems related to the facility or activity if
20 designed to identify and prevent noncompliance and to improve compliance
21 with these laws. For the purposes of this Article, an environmental audit
22 does not include an environmental site assessment of a facility conducted
23 solely in anticipation of the purchase, sale, or transfer of the business or
24 facility. An environmental audit may be conducted by the owner or operator,
25 the parent corporation of the owner or operator or by their officers or
26 employees, or by independent contractors. An environmental audit must be a
27 discrete activity with a specified beginning date and scheduled ending date
28 reflecting the auditor's bona fide intended completion schedule.

29 (3) "Environmental audit report" means a document marked or identified as
30 such with a completion date existing either individually or as a compilation
31 prepared in connection with an environmental audit. An environmental audit
32 report may include field notes and records of observations, findings,
33 opinions, suggestions, recommendations, conclusions, drafts, memoranda,
34 drawings, photographs, computer-generated or electronically-recorded
35 information, maps, charts, graphs, and surveys, provided the supporting
36 information is collected or developed for the primary purpose and in the
37 course of an environmental audit. An environmental audit report, when
38 completed, may include all of the following components:

39 a. An audit report prepared by an auditor, which may include the scope
40 and date of the audit and the information gained in the audit, together
41 with exhibits and appendices and may include conclusions,
42 recommendations, exhibits, and appendices.

43 b. Memoranda and documents analyzing any portion of the audit report
44 or issues relating to the implementation of an audit report.

45 c. An implementation plan that addresses correcting past
46 noncompliance, improving current compliance, or preventing future
47 noncompliance.

48 (4) "Enforcement agencies" means the Department, any other agency of the
49 State, and units of local government responsible for enforcement of
50 environmental laws.

- 1 (5) "Environmental laws" means all provisions of federal, State, and local laws,
2 rules, and ordinances pertaining to environmental matters.

3 **"§ 8-58.52. Applicability.**

4 This Article applies to activities regulated under environmental laws, including all of the
5 following provisions of the General Statutes, and rules adopted thereunder:

- 6 (1) Article 7 of Chapter 74.
7 (2) Chapter 104E.
8 (3) Article 25 of Chapter 113.
9 (4) Articles 1,4, and 7 of Chapter 113A.
10 (5) Article 9 of Chapter 130A.
11 (6) Articles 21, 21A, and 21B of Chapter 143.
12 (7) Article 1 of Article 7 of Chapter 143B.

13 **"§ 8-58.53. Environmental audit report; privilege.**

14 (a) An environmental audit report or any part of an environmental audit report is
15 privileged and, therefore, immune from discovery and is not admissible as evidence in civil or
16 administrative proceedings, except as provided in G.S. 8-58.54 and G.S. 8-58.56. Provided,
17 however, all of the following documents are exempt from the privilege established by this
18 Article:

- 19 (1) Information obtained by observation of an enforcement agency.
20 (2) Information obtained from a source independent of the environmental audit.
21 (3) Documents, communication, data, reports, or other information required to
22 be collected, maintained, otherwise made available, or reported to a
23 enforcement agency or any other entity by environmental laws, permit,
24 order, consent agreement, or as otherwise provided by law.
25 (4) Documents prepared either prior to the beginning of the environmental audit
26 or subsequent to the completion date of the audit report and, in all cases, any
27 documents prepared independent of the audit or audit report.
28 (5) Documents prepared as a result of multiple or continuous self-auditing
29 conducted in an effort to intentionally avoid liability for violations.
30 (6) Information which is knowingly misrepresented or misstated or which is
31 knowingly deleted or withheld from an environmental audit report, whether
32 or not included in a subsequent environmental audit report.
33 (7) Information in instances where the material shows evidence of
34 noncompliance with environmental laws, permits, orders, consent
35 agreements, and the owner or operator failed to either promptly take
36 corrective action or eliminate any violation of law identified during the
37 environmental audit within a reasonable period of time.

38 (b) If an environmental audit report or any part of an environmental audit report is
39 subject to the privilege provided for in subsection (a) of this section, no person who conducted
40 or participated in the audit or who significantly reviewed the audit report may be compelled to
41 testify regarding the audit report or a privileged part of the audit report except as provided for
42 in G.S. 8-58.53(d), 8-58.54, or 8-58.56.

43 (c) Nothing in this Article shall be construed to restrict a party in a proceeding before
44 the Industrial Commission from obtaining or discovering any evidence necessary or appropriate
45 for the proof of any issue pending in an action before the Commission, regardless of whether
46 evidence is privileged pursuant to this Article. Further, nothing in this Article shall be
47 construed to prevent the admissibility of evidence which is otherwise relevant and admissible
48 in a proceeding before the Industrial Commission, regardless of whether the evidence is
49 privileged pursuant to this Article. Provided, however, the Commission, upon motion made by
50 a party to the proceeding, may issue appropriate protective orders preventing disclosure of
51 information outside of the Commission's proceeding.

1 (d) Nothing in this Article shall be construed to circumvent the employee protection
2 provisions provided by federal or State law.

3 (e) The privilege created by this Article does not apply to criminal investigations or
4 proceedings. Where an audit report is obtained, reviewed, or used in a criminal proceeding, the
5 privilege created by this Article shall continue to apply and is not waived in civil and
6 administrative proceedings and is not discoverable or admissible in civil or administrative
7 proceedings even if disclosed during a criminal proceeding.

8 **"§ 8-58.54. Waiver of privilege.**

9 (a) The privilege established under G.S. 8-58.53 does not apply to the extent that it is
10 expressly waived in writing by the owner or operator of a facility at which an environmental
11 audit was conducted and who prepared or caused to be prepared the audit report as a result of
12 the audit.

13 (b) The audit report and information generated by the audit may be disclosed without
14 waiving the privilege established under G.S. 8-58.53 to all of the following persons:

15 (1) A person employed by the owner or operator or the parent corporation of the
16 audited facility.

17 (2) A legal representative of the owner or operator or parent corporation.

18 (3) An independent contractor retained by the owner or operator or parent
19 corporation to conduct an audit on or to address an issue or issues raised by
20 the audit.

21 (c) Disclosure of an audit report or information generated by the audit under all of the
22 following circumstances shall not constitute a waiver of the privilege established under
23 G.S. 8-58.53:

24 (1) Disclosure made under the terms of a confidentiality agreement between the
25 owner or operator of the facility audited and a potential purchaser of the
26 business or facility audited.

27 (2) Disclosure made under the terms of a confidentiality agreement between
28 governmental officials and the owner or operator of the facility audited.

29 (3) Disclosure made under the terms of a confidentiality agreement between a
30 customer, lending institution, or insurance company with an existing or
31 proposed relationship with the facility.

32 **"§ 8-58.55. Notification of audit.**

33 In order to assert the privilege established under G.S. 8-58.53, the owner or operator of the
34 facility conducting the environmental audit shall, upon inspection of the facility by an
35 enforcement agency, or no later than 10 working days after completion of an agency's
36 inspection, notify the enforcement agency of the existence of any audit relevant to the subject
37 of the agency's inspection, as well as the beginning date and completion date of that audit. Any
38 environmental audit report shall include a signed certification from the owner or operator of the
39 facility that documents the date the audit began and the completion date of the audit.

40 **"§ 8-58.56. Revocation of privilege in civil and administrative proceedings.**

41 In a civil or administrative proceeding, an enforcement agency may seek by motion a
42 declaratory ruling on the issue of whether an environmental audit report is privileged. The court
43 shall revoke the privilege established under G.S. 8-58.53 for an audit report if the factors set
44 forth in this section apply. In a civil proceeding, the court, after an in camera review, shall
45 revoke the privilege established under G.S. 8-58.53 if the court determines that disclosure of
46 the environmental audit report was sought after the effective date of this Article and either of
47 the following apply:

48 (1) The privilege is asserted for purposes of deception or evasion.

49 (2) The material shows evidence of significant noncompliance with applicable
50 environmental laws; the owner or operator of the facility has not promptly
51 initiated and pursued with diligence appropriate action to achieve

1 compliance with these environmental laws or has not made reasonable
2 efforts to complete any necessary permit application; and, as a result, the
3 owner or operator of the facility did not or will not achieve compliance with
4 applicable environmental laws or did not or will not complete the necessary
5 permit application within a reasonable period of time.

6 **"§ 8-58.57. Privilege in criminal proceedings.**

7 The privilege established under G.S. 8-58.53 is not applicable in any criminal proceeding.

8 **"§ 8-58.58. Burden of proof.**

9 A party asserting the privilege established under G.S. 8-58.53 has the burden of proving
10 that (i) the materials claimed as privileged constitute an environmental audit report as defined
11 by this Article and (ii) compliance has been achieved or will be achieved with a reasonable
12 period of time. A party seeking disclosure under G.S.8-58.56 has the burden of proving the
13 condition for disclosure set forth in that section.

14 **"§ 8-58.59. Stipulations; declaratory rulings.**

15 The parties to a proceeding may at any time stipulate to entry of an order directing that
16 specific information contained in an environmental audit report is or is not subject to the
17 privilege. In the absence of an ongoing proceeding, where the parties are not in agreement, an
18 enforcement agency may seek a declaratory ruling from a court on the issue of whether the
19 materials are privileged under G.S. 8-58.53 and whether the privilege, if existing, should be
20 revoked pursuant to G.S. 8-58.56.

21 **"§ 8-58.60. Construction of Article.**

22 Nothing in this Article limits, waives, or abrogates any of the following:

- 23 (1) The scope or nature of any statutory or common law privilege, including the
24 work-product privilege or the attorney-client privilege.
- 25 (2) Any existing ability or authority under State law to challenge privilege.
- 26 (3) An enforcement agency's ability to obtain or use documents or information
27 that the agency otherwise has the authority to obtain under State law adopted
28 pursuant to federally delegated programs.

29 **"§ 8-58.61. Voluntary disclosure; limited immunity from civil and administrative**
30 **penalties and fines.**

31 (a) An owner or operator of a facility is immune from imposition of civil and
32 administrative penalties and fines for a violation of environmental laws voluntarily disclosed
33 subject to the requirements and criteria set forth in this section. Provided, however, that waiver
34 of penalties and fines shall not be granted until the applicable enforcement agency has certified
35 that the violation was corrected within a reasonable period of time. If compliance is not
36 certified by the enforcement agency, the enforcement agency shall retain discretion to assess
37 penalties and fines for the violation.

38 (b) If a person or entity makes a voluntary disclosure of a violation of environmental
39 laws discovered through performance of an environmental audit, that person has the burden of
40 proving (i) that the disclosure is voluntary by establishing the elements set forth in subsection
41 (c) of this section and (ii) that the person is therefore entitled to immunity from any
42 administrative or civil penalties associated with the issues disclosed. Nothing in this section
43 may be construed to provide immunity from criminal penalties.

44 (c) For purposes of this section, disclosure is voluntary if all of the following criteria
45 are met:

- 46 (1) The disclosure is made within 14 days following a reasonable investigation
47 of the violation's discovery through the environmental audit.
- 48 (2) The disclosure is made to an enforcement agency having regulatory
49 authority over the violation disclosed.
- 50 (3) The person or entity making the disclosure initiates an action to resolve the
51 violation identified in the disclosure in a diligent manner.

- 1 (4) The person or entity making the disclosure cooperates with the applicable
2 enforcement agency in connection with investigation of the issues identified
3 in the disclosure.
- 4 (5) The person or entity making the disclosure diligently pursues compliance
5 and promptly corrects the noncompliance within a reasonable period of time.
- 6 (d) A disclosure is not voluntary for purposes of this section if any of the following
7 factors apply:
- 8 (1) Specific permit conditions require monitoring or sampling records and
9 reports or assessment plans and management plans to be maintained or
10 submitted to the enforcement agency pursuant to an established schedule.
- 11 (2) Environmental laws or specific permit conditions require notification of
12 releases to the environment.
- 13 (3) The violation was committed intentionally, wilfully, or through criminal
14 negligence by the person or entity making the disclosure.
- 15 (4) The violation was not corrected in a diligent manner.
- 16 (5) The violation posed or poses a significant threat to public health, safety, and
17 welfare; the environment; and natural resources.
- 18 (6) The violation occurred within one year of a similar prior violation at the
19 same facility, and immunity from civil and administrative penalties was
20 granted by the applicable enforcement agency for the prior violation.
- 21 (7) The violation has resulted in a substantial economic benefit to the owner or
22 operator of the facility.
- 23 (8) The violation is a violation of the specific terms of a judicial or
24 administrative order.
- 25 (e) If a person meets the burden of proving that the disclosure is voluntary, the burden
26 shifts to the enforcement agency to prove that the disclosure was not voluntary, based upon the
27 factors set forth in this section. The person claiming immunity from civil or administrative
28 penalties or fines under this section retains the ultimate burden of proving the violations were
29 voluntarily disclosed.
- 30 (f) A voluntary disclosure made pursuant to this section is subject to disclosure
31 pursuant to the Public Records Act in accordance with the provisions of Chapter 132 of the
32 General Statutes.

33 **"§ 8-58.61. Preemption of local laws.**

34 No local law, rule, ordinance, or permit condition may circumvent or limit the privilege
35 established by this Article or the exercise of the privileges or the presumption and immunity
36 established by this Article."

37 **"§ 8-58.62. Additional limitations on exercise of privilege or immunity.**

38 An owner or operator of a facility who makes a voluntary disclosure of a violation of
39 environmental laws discovered through performance of an environmental audit shall only be
40 entitled to exercise of the privilege or immunity established by this Part once in a two-year
41 period, not more than twice in a five-year period, and not more than three times in a ten-year
42 period."

43 **SECTION 3.6.(b)** This section becomes effective July 1, 2014, and applies to
44 environmental audits, as defined in G.S. 8-58.51, as enacted by subsection (a) of this section,
45 that are conducted on or after that date.

46
47 **CLARIFY DEFINITION OF "CHILD CARE"**

48 **SECTION 3.7.** G.S. 110-86(2)f. reads as rewritten:

49 **"§ 110-86. Definitions.**

50 Unless the context or subject matter otherwise requires, the terms or phrases used in this
51 Article shall be defined as follows:

1 ...
 2 (2) Child care. – A program or arrangement where three or more children less
 3 than 13 years old, who do not reside where the care is provided, receive care
 4 on a regular basis of at least once per week for more than four hours but less
 5 than 24 hours per day from persons other than their guardians or full-time
 6 custodians, or from persons not related to them by birth, marriage, or
 7 adoption. Child care does not include the following:

8 ...
 9 f. Nonpublic schools described in Part 2 of Article 39 of Chapter 115C
 10 of the General Statutes that are accredited by national or regional
 11 accrediting agencies with early childhood standards and that operate
 12 (i) a child care facility as defined in subdivision (3) of this section for
 13 less than six and one-half hours per day either on or off the school
 14 site; site, or (ii) a child care facility for more than six and one-half
 15 hours per day, but do not receive NC Pre-K or child care subsidy
 16 funding:"
 17

18 AMBIENT AIR MONITORING

19 **SECTION 3.9.(a)** The Department of Environment and Natural Resources shall
 20 review its ambient air monitoring network and, in the next annual monitoring network plan
 21 submitted to the United States Environmental Protection Agency, shall request the removal of
 22 any ambient air monitors not required by applicable federal laws and regulations.

23 **SECTION 3.9.(b)** No later than September 1, 2014, the Department of
 24 Environment and Natural Resources shall discontinue all ambient air monitors not required by
 25 applicable federal laws and regulations if approval from the United States Environmental
 26 Protection Agency is not required for the discontinuance.

27 **SECTION 3.9.(c)** Nothing in this section is intended to prevent the Department
 28 from installing temporary ambient air monitors as part of an investigation of a suspected
 29 violation of air quality rules, standards, or limitations or in response to an emergency situation
 30 causing an imminent danger to human health and safety.

31 **SECTION 3.9.(d)** The Department of Environment and Natural Resources,
 32 Division of Air Quality, shall report to the Environmental Review Commission no later than
 33 November 1, 2014, on the status of the ambient air monitoring network and the Division's
 34 implementation of the requirements of this section.
 35

36 GOOD SAMARITAN LAW

37 **SECTION 3.10.** G.S. 90-21.14 reads as rewritten:

38 "**§ 90-21.14. First aid or emergency treatment; liability limitation.**

39 (a) Any person, including a volunteer medical or health care provider at a facility of a
 40 local health department as defined in G.S. 130A-2 or at a nonprofit community health center or
 41 a volunteer member of a rescue squad, who ~~receives no compensation for his services as an~~
 42 ~~emergency medical care provider, who voluntarily and without expectation of compensation~~
 43 renders first aid or emergency health care treatment to a person who is unconscious, ill or
 44 injured,

45 (1) When the reasonably apparent circumstances require prompt decisions and
 46 actions in medical or other health care, and

47 (2) When the necessity of immediate health care treatment is so reasonably
 48 apparent that any delay in the rendering of the treatment would seriously
 49 worsen the physical condition or endanger the life of the person,

50 shall not be liable for damages for injuries alleged to have been sustained by the person or for
 51 damages for the death of the person alleged to have occurred by reason of an act or omission in

1 the rendering of the treatment unless it is established that the injuries were or the death was
2 caused by gross negligence, wanton conduct or intentional wrongdoing on the part of the
3 person rendering the treatment. The immunity conferred in this section also applies to any
4 person who uses an automated external defibrillator (AED) and otherwise meets the
5 requirements of this section.

6"

7 8 **OPEN BURNING**

9 **SECTION 3.11.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
10 NCAC 02D .1902 (Definitions) apply to this section.

11 **SECTION 3.11.(b)** 15A NCAC 02D .1903 (Open Burning Without an Air Quality
12 Permit). – Until the effective date of the revised permanent rule that the Commission is
13 required to adopt pursuant to Section 3.11(d) of this section, the Commission and the
14 Department shall implement 15A NCAC 02D .1903 (Open Burning Without an Air Quality
15 Permit) as provided in Section 3.11(c) of this section.

16 **SECTION 3.11.(c)** Implementation. – Notwithstanding Paragraph (b) of 15A
17 NCAC 02D .1903 (Open Burning Without an Air Quality Permit), no air quality permit is
18 required for the open burning of leaves, logs, stumps, tree branches, or yard trimmings if the
19 following conditions are met:

- 20 (1) The material burned originates on the premises of private residences and is
21 burned on those premises.
- 22 (2) There are no public pickup services available.
- 23 (3) Nonvegetative materials, such as household garbage, lumber, or any other
24 synthetic materials, are not burned.
- 25 (4) The burning is initiated no earlier than 8:00 A.M. and no additional
26 combustible material is added to the fire between 6:00 P.M. on one day and
27 8:00 A.M. on the following day.
- 28 (5) The burning does not create a nuisance.
- 29 (6) Material is not burned when the North Carolina Forest Service has banned
30 burning for that area.

31 The burning of logs or stumps of any size shall not be considered to create a nuisance for
32 purposes of the application of the open burning air quality permitting exception described in
33 this subsection.

34 **SECTION 3.11.(d)** Additional Rule-Making Authority. – The Commission shall
35 adopt a rule to amend 15A NCAC 02D .1903 (Open Burning Without an Air Quality Permit)
36 consistent with Section 3.11(c) of this section. Notwithstanding G.S. 150B-19(4), the rule
37 adopted by the Commission pursuant to this section shall be substantively identical to the
38 provisions of Section 3.11(c) of this section. Rules adopted pursuant to this section are not
39 subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant
40 to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more
41 written objections had been received as provided by G.S. 150B-21.3(b2).

42 **SECTION 3.11.(e)** Sunset. – Section 3.11(c) of this section expires on the date that
43 rules adopted pursuant to Section 3.11(d) of this section become effective.

44 **SECTION 3.11.(f)** Local Government Air Pollution Control Program Limitation. –
45 G.S. 143-215.112(c) is amended by adding a new subdivision to read:

46 "**§ 143-215.112. Local air pollution control programs.**

47 ...

- 48 (c) (1) The governing body of any county, municipality, or group of counties and
49 municipalities within a designated area of the State, as defined in this Article
50 and Article 21, subject to the approval of the Commission, is hereby
51 authorized to establish, administer, and enforce a local air pollution control

1 program for the county, municipality, or designated area of the State which
2 includes but is not limited to:

- 3 a. Development of a comprehensive plan for the control and abatement
4 of new and existing sources of air pollution;
5 b. Air quality monitoring to determine existing air quality and to define
6 problem areas, as well as to provide background data to show the
7 effectiveness of a pollution abatement program;
8 c. An emissions inventory to identify specific sources of air
9 contamination and the contaminants emitted, together with the
10 quantity of material discharged into the outdoor atmosphere;
11 d. Adoption, after notice and public hearing, of air quality and emission
12 control standards, or adoption by reference, without public hearing,
13 of any applicable rules and standards duly adopted by the
14 Commission; and administration of such rules and standards in
15 accordance with provisions of this section.
16 e. Provisions for the establishment or approval of time schedules for the
17 control or abatement of existing sources of air pollution and for the
18 review of plans and specifications and issuance of approval
19 documents covering the construction and operation of pollution
20 abatement facilities at existing or new sources;
21 f. Provision for adequate administrative staff, including an air pollution
22 control officer and technical personnel, and provision for laboratory
23 and other necessary facilities.

24 ...

25 (6) No local air pollution control program may limit or otherwise regulate any
26 combustion heater, appliance, or fireplace in private dwellings. For purposes
27 of this subdivision, "combustion heater, appliance, or fireplace" means any
28 heater, appliance, or fireplace that burns combustion fuels, including, but not
29 limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or
30 coal, for heating, cooking, drying, or decorative purposes."

31 **SECTION 3.11.(g)** G.S. 143-215.108 is amended by adding a new subsection to

32 read:

33 **"§ 143-215.108. Control of sources of air pollution; permits required.**

34 ...

35 (j) No Power to Regulate Residential Combustion. – Nothing in this section shall be
36 interpreted to give the Commission or the Department the power to regulate the emissions from
37 any combustion heater, appliance, or fireplace in private dwellings, except to the extent
38 required by federal law. For purposes of this subsection, "combustion heater, appliance, or
39 fireplace" means any heater, appliance, or fireplace that burns combustion fuels, including, but
40 not limited to, natural or liquefied petroleum gas, fuel oil, kerosene, wood, or coal, for heating,
41 cooking, drying, or decorative purposes."

42 **SECTION 3.11.(h)** G.S. 160A-193 is amended by adding a new subsection to

43 read:

44 **"§ 160A-193. Abatement of public health nuisances.**

45 (a) A city shall have authority to summarily remove, abate, or remedy everything in the
46 city limits, or within one mile thereof, that is dangerous or prejudicial to the public health or
47 public safety. Pursuant to this section, the governing board of a city may order the removal of a
48 swimming pool and its appurtenances upon a finding that the swimming pool or its
49 appurtenances is dangerous or prejudicial to public health or safety. The expense of the action
50 shall be paid by the person in default. If the expense is not paid, it is a lien on the land or

1 premises where the nuisance occurred. A lien established pursuant to this subsection shall have
2 the same priority and be collected as unpaid ad valorem taxes.

3 ...
4 (c) The authority granted by this section does not authorize the application of a city
5 ordinance banning or otherwise limiting outdoor burning to persons living within one mile of
6 the city, unless the city provides those persons with either (i) trash and yard waste collection
7 services or (ii) access to solid waste dropoff sites on the same basis as city residents."

9 INLET HAZARD AREAS

10 **SECTION 3.12.(a)** The definitions set out in G.S. 113A-103 apply to this section.

11 **SECTION 3.12.(b)** 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas). –
12 Until the effective date of the revised permanent rule that the Commission is required to adopt
13 pursuant to Section 3.12(d) of this section, the Commission and the Department shall
14 implement 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) as provided in Section
15 3.12(c) of this section.

16 **SECTION 3.12.(c)** Implementation. – Notwithstanding Subparagraph (3) of 15A
17 NCAC 07H .0304 (AECs Within Ocean Hazard Areas), the Commission shall not establish any
18 new and shall repeal any existing inlet hazard area in any location with the following
19 characteristics:

- 20 (1) The location is the former location of an inlet, but the inlet has been closed
21 for at least 15 years.
- 22 (2) Due to shoreline migration, the location no longer includes the current
23 location of the inlet.
- 24 (3) The location includes an inlet providing access to a State Port via a channel
25 maintained by the United States Army Corps of Engineers.

26 **SECTION 3.12.(d)** Additional Rule-Making Authority. – The Commission shall
27 adopt a rule to amend 15A NCAC 07H .0304 (AECs Within Ocean Hazard Areas) consistent
28 with Section 3.12(c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the
29 Commission pursuant to this section shall be substantively identical to the provisions of Section
30 3.12(c) of this act. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A
31 of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become
32 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been
33 received as provided by G.S. 150B-21.3(b2).

34 **SECTION 3.12.(e)** Sunset. – Section 3.12(c) of this section expires on the date that
35 rules adopted pursuant to subsection (d) of this section become effective.

36 **SECTION 3.12.(f)** Nothing in this section is intended to prevent the Commission
37 from (i) studying any current inlet hazard area or any other area considered by the Commission
38 for designation as an inlet hazard area, (ii) designating new inlet hazard areas, or (iii)
39 modifying existing inlet hazard areas consistent with Section 3.12(c) of this act.

40 HUNTING TRIALS

41 **SECTION 3.13.(a)** G.S. 113-274 reads as rewritten:

42 "§ 113-274. Permits.

43 (a) As used in this Article, the word "permit" refers to a written authorization issued
44 without charge by an employee or agent of the Wildlife Resources Commission to an individual
45 or a person to conduct some activity over which the Wildlife Resources Commission has
46 jurisdiction. When sale of wildlife resources is permitted, rules or the directives of the
47 Executive Director may require the retention of invoices or copies of invoices in lieu of a
48 permit.

49 (b) Except as otherwise specifically provided, no one may engage in any activity for
50 which a permit is required without having first procured a current and valid permit.
51

1 (c) The Wildlife Resources Commission may issue the following permits:

2 ...

3 (3d) Field trial dog handler or judge permit. – Authorizes a person to participate
4 as a dog handler or judge in a field trial authorized under G.S. 113-291.1(d)
5 without possessing a hunting license so long as that person does not
6 participate in any hunting activities with the dog. For purposes of this
7 subdivision, the term "hunting activities" does not include field trials using
8 exclusively either domestically raised waterfowl and game birds or legally
9 taken dead game.

10"

11 **SECTION 3.13.(b)** This section becomes effective July 1, 2014.

13 EXPEDITED IBT PROCESS FOR CERTAIN RESERVOIRS

14 **SECTION 3.14.** G.S. 143-215.22L(w) reads as rewritten:

15 "(w) Requirements for Coastal ~~Counties~~ Counties and Reservoirs Constructed by the
16 United States Army Corps of Engineers. – A petition for a certificate (i) to transfer surface
17 water to supplement ground water supplies in the 15 counties designated as the Central
18 Capacity Use Area under 15A NCAC 2E.0501, ~~or~~ (ii) to transfer surface water withdrawn from
19 the mainstem of a river to provide service to one of the coastal area counties designated
20 pursuant to G.S. 113A-103, or (iii) to withdraw or transfer water stored in any multipurpose
21 reservoir constructed by the United States Army Corps of Engineers and partially located in a
22 state adjacent to North Carolina, provided the United States Army Corps of Engineers approved
23 the withdrawal or transfer on or before July 1, 2014, shall be considered and a determination
24 made according to the following procedures:

- 25 (1) The applicant shall file a notice of intent that includes a nontechnical
26 description of the applicant's request and identification of the proposed water
27 source.
- 28 (2) The applicant shall prepare an environmental document pursuant to
29 subsection (d) of this section, except that an environmental impact statement
30 shall not be required unless it would otherwise be required by Article 1 of
31 Chapter 113A of the General Statutes.
- 32 (3) Upon determining that the documentation submitted by the applicant is
33 adequate to satisfy the requirements of this subsection, the Department shall
34 publish a notice of the petition in the North Carolina Register and shall hold
35 a public hearing at a location convenient to both the source and receiving
36 river basins. The Department shall provide written notice of the petition and
37 the public hearing in the Environmental Bulletin, a newspaper of general
38 circulation in the source river basin, a newspaper of general circulation in
39 the receiving river basin, and as provided in subdivision (3) of subsection (c)
40 of this section. The applicant who petitions the Commission for a certificate
41 under this subdivision shall pay the costs associated with the notice and
42 public hearing.
- 43 (4) The Department shall accept comments on the petition for a minimum of 30
44 days following the public hearing.
- 45 (5) The Commission or the Department may require the applicant to provide any
46 additional information or documentation it deems reasonably necessary in
47 order to make a final determination.
- 48 (6) The Commission shall make a final determination whether to grant the
49 certificate based on the factors set out in subsection (k) of this section,
50 information provided by the applicant, and any other information the

1 Commission deems relevant. The Commission shall state in writing its
2 findings of fact and conclusions of law with regard to each factor.

- 3 (7) The Commission shall grant the certificate if it finds that the applicant has
4 established by a preponderance of the evidence that the petition satisfies the
5 requirements of subsection (m) of this section. The Commission may grant
6 the certificate in whole or in part, or deny the request, and may impose such
7 limitations and conditions on the certificate as it deems necessary and
8 relevant."
9

10 **ADJUST UTILITY REGULATORY FEE**

11 **SECTION 3.15.(a)** G.S. 62-302 reads as rewritten:

12 **"§ 62-302. Regulatory fee.**

13 (a) Fee Imposed. – It is the policy of the State of North Carolina to provide fair
14 regulation of public utilities in the interest of the public, as provided in G.S. 62-2. The cost of
15 regulating public utilities is a burden incident to the privilege of operating as a public utility.
16 Therefore, for the purpose of defraying the cost of regulating public utilities, every public
17 utility subject to the jurisdiction of the Commission shall pay a quarterly regulatory fee, in
18 addition to all other fees and taxes, as provided in this section. The fees collected shall be used
19 only to pay the expenses of the Commission and the Public Staff in regulating public utilities in
20 the interest of the public.

21 It is also the policy of the State to provide limited oversight of certain electric membership
22 corporations as provided in G.S. 62-53. Therefore, for the purpose of defraying the cost of
23 providing the oversight authorized by G.S. 62-53 and G.S. 117-18.1, each fiscal year each
24 electric membership corporation whose principal purpose is to furnish or cause to be furnished
25 bulk electric supplies at wholesale as provided in G.S. 117-16 shall pay an annual fee as
26 provided in this section.

27 (b) Public Utility Rate. –

28 (1) Repealed by Session Laws 2000-140, s. 56, effective July 21, 2000.

29 (2) The—For noncompetitive jurisdictional revenues as defined in
30 sub-subdivision (4)a. of this subsection, the public utility regulatory fee for
31 each fiscal year shall be is the greater of (i) a percentage rate, established by
32 the General Assembly, of each public utility's North—Carolina
33 noncompetitive jurisdictional revenues for each quarter or (ii) six dollars and
34 twenty-five cents (\$6.25) each quarter. For subsection (h) competitive
35 jurisdictional revenues as defined in sub-subdivision (4)b. of this subsection
36 and subsection (m) competitive jurisdictional revenues as defined in
37 sub-subdivision (4)c. of this subsection, the public utility regulatory fee for
38 each fiscal year is a percentage rate established by the General Assembly of
39 each public utility's competitive jurisdictional revenues for each quarter.

40 When the Commission prepares its budget request for the upcoming fiscal
41 year, the Commission shall propose a percentage rate of the public utility
42 regulatory fee. For fiscal years beginning in an odd-numbered year, that
43 proposed rate shall be included in the budget message the Governor submits
44 to the General Assembly pursuant to G.S. 143C-3-5. For fiscal years
45 beginning in an even-numbered year, that proposed rate shall be included in
46 a special budget message the Governor shall submit to the General
47 Assembly. The General Assembly shall set the percentage rate of the public
48 utility regulatory fee by law.

49 The percentage rate may not exceed the amount necessary to generate funds
50 sufficient to defray the estimated cost of the operations of the Commission
51 and the Public Staff for the upcoming fiscal year, including a reasonable

margin for a reserve fund. The amount of the reserve may not exceed the estimated cost of operating the Commission and the Public Staff for the upcoming fiscal year. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Commission or the Public Staff or a possible unanticipated increase or decrease in North Carolina jurisdictional revenues.

(3) If the Commission, the Public Staff, or both experience a revenue shortfall, the Commission shall implement a temporary public utility regulatory fee surcharge to avert the deficiency that would otherwise occur. In no event may the total percentage rate of the public utility regulatory fee plus any surcharge established by the Commission exceed twenty-five hundredths percent (0.25%).

(4) As used in this section, ~~the term "North Carolina jurisdictional revenues" means:~~section:

a. ~~All~~"Noncompetitive jurisdictional revenues" means all revenues derived or realized from intrastate tariffs, rates, and charges approved or allowed by the Commission or collected pursuant to Commission order or rule, but not including tap-on fees or any other form of contributions in aid of construction.

b. ~~All~~"Subsection (h) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under no longer otherwise regulated by the operation of G.S. 62-133.5(h) or G.S. 62-133.5(m) for a local exchange company or competing local provider that has elected to be regulated under those subsections.G.S. 62-133.5(h).

c. "Subsection (m) competitive jurisdictional revenues" means all revenues derived from retail services provided by local exchange companies and competing local providers that have elected to operate under G.S. 62-133.5(m).

...

(e) Recovery of Fee Increase. – If a utility's regulatory fee obligation is increased, the Commission shall either adjust the utility's rates to allow for the recovery of the increased fee obligation or approve the utility's request for an accounting order allowing deferral of the increase in the fee obligation."

SECTION 3.15.(b) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2015, is six-hundredths of one percent (0.06%).

SECTION 3.15.(c) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (h) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)b. earned during each quarter that begins on or after July 1, 2016, is four-hundredths of one percent (0.04%).

SECTION 3.15.(d) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2015, is five-hundredths of one percent (0.05%).

SECTION 3.15.(e) The percentage rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each public utility's North Carolina subsection (m) competitive jurisdictional revenues as defined by G.S. 62-302(b)(4)c. earned during each quarter that begins on or after July 1, 2016, is two-hundredths of one percent (0.02%).

1 **SECTION 3.15.(f)** For the 2015-2016 and 2016-2017 fiscal years, the percentage
2 rate to be used in calculating the public utility regulatory fee under G.S. 62-302(b)(2) for each
3 public utility's North Carolina noncompetitive jurisdictional revenues as defined by
4 G.S. 62-302(b)(4)a. shall be adjusted to reflect the decrease in the total regulatory fee collected
5 as a result of subsections (b), (c), (d), and (e) of this section and shall be set to ensure the total
6 regulatory fee collected for each fiscal year is at least an amount sufficient to defray the cost of
7 the operations of the Commission and the Public Staff for the upcoming fiscal year, including a
8 reasonable margin for a reserve fund.

9 **SECTION 3.15.(g)** This section becomes effective July 1, 2015.

10 11 **AMEND JORDAN LAKE RULE FOR EXISTING RIPARIAN BUFFERS**

12 **SECTION 3.16.** Section 2(c) of S.L. 2013-395 reads as rewritten:

13 **"SECTION 2.(c)** Implementation. – The Protection of Existing Riparian Buffers Rule
14 shall be implemented as follows:

- 15 (1) Notwithstanding the Table of Uses set out in subdivision (9) of the
16 Protection of Existing Riparian Buffers Rule, utility, nonelectric, other than
17 perpendicular crossings that have impacts only in Zone Two shall be
18 categorized as exempt.
- 19 (2) Notwithstanding the Table of Uses set out in subdivision (9) of the
20 Protection of Existing Riparian Buffers Rule, the piping of a stream allowed
21 under a permit issued by the United States Army Corps of Engineers shall be
22 categorized as an ~~allowable~~ exempt use.
- 23 (3) Notwithstanding the definition of "Airport Facilities" set out in
24 sub-subdivision (b) of subdivision (2) of the Protection of Existing Riparian
25 Buffers Rule, "Airport Facilities" shall include any aeronautic industrial
26 facilities that require direct access to the airfield."
27

28 **ELIMINATE OUTDATED AIR QUALITY REPORTING REQUIREMENTS**

29 **SECTION 3.17.(a)** G.S. 143-215.3A reads as rewritten:

30 **"§ 143-215.3A. Water and Air Quality Account; use of application and permit fees; Title**
31 **V Account; I & M Air Pollution Control Account; reports.**

32 ...

33 (c) The Department shall report to the Environmental Review Commission and the
34 Fiscal Research Division on the cost of the State's environmental permitting programs
35 contained within the Department on or before 1 November of each year. ~~In addition, the~~
36 ~~Department shall report to the Environmental Review Commission and the Fiscal Research~~
37 ~~Division on the cost of the Title V Program on or before 1 November of each year.~~ The reports
38 report shall include, but are is not limited to, fees set and established under this Article, fees
39 collected under this Article, revenues received from other sources for environmental permitting
40 and compliance programs, changes made in the fee schedule since the last report, anticipated
41 revenues from all other sources, interest earned and any other information requested by the
42 General Assembly."

43 **SECTION 3.17.(b)** The following sections of S.L. 2002-4 are repealed:

- 44 (1) Section 10.
45 (2) Section 11, as amended by Section 12 of S.L. 2006-79 and S.L. 2010-142.
46 (3) Section 12.
47 (4) Section 13.

48 **SECTION 3.17.(c)** G.S. 143-215.108(g) is repealed.

49 50 **CLARIFYING CHANGES TO STATUTES PERTAINING TO THE MANAGEMENT** 51 **OF VENOMOUS SNAKES AND OTHER REPTILES**

1 **SECTION 3.18.** G.S. 114-419(b) reads as rewritten:

2 "**§ 14-419. Investigation of suspected violations; seizure and examination of reptiles;**
3 **disposition of reptiles.**

4 ...

5 (b) If the Museum or the Zoological Park or their designated representatives find that a
6 seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under this
7 Article, the Museum or the Zoological Park or their designated representative shall determine
8 final disposition of the reptile in a manner consistent with the safety of the public, which in the
9 case of a venomous reptile for which antivenin approved by the United States Food and Drug
10 Administration is not readily available, ~~may include euthanasia,~~ shall be euthanized unless the
11 species is protected under the federal Endangered Species Act of 1973."

12
13 **REFORM ON-SITE WASTEWATER REGULATION**

14 **SECTION 3.19.(a)** G.S. 130A-334 reads as rewritten:

15 "**§ 130A-334. Definitions.**

16 The following definitions shall apply throughout this Article:

17 ...

18 (1b) "Ground absorption system" means a system of tanks, treatment units,
19 nitrification fields, and appurtenances for wastewater collection, treatment,
20 and subsurface disposal.

21 ...

22 (7a) "Plat" means a property survey prepared by a registered land surveyor,
23 drawn to a scale of one inch equals no more than 60 feet, that includes: the
24 specific location of the proposed facility and appurtenances, the site for the
25 proposed wastewater system, and the location of water supplies and surface
26 waters. "Plat" also means, for subdivision lots approved by the local
27 planning authority ~~and recorded with the county register of deeds,~~ if a local
28 planning authority exists at the time of application for a permit under this
29 Article, a copy of the ~~recorded~~ subdivision plat that has been recorded with
30 the county register of deeds and is accompanied by a site plan that is drawn
31 to scale.

32 ...

33 (15) "Wastewater system" means a system of wastewater collection, treatment,
34 and disposal in single or multiple components, including a ground
35 absorption system, privy, septic tank system, public or community
36 wastewater system, wastewater reuse or recycle system, mechanical or
37 biological wastewater treatment system, any other similar system, and any
38 chemical toilet used only for human waste. A wastewater system located on
39 multiple adjoining lots or tracts of land under common ownership or control
40 shall be considered a single system for purposes of permitting under this
41 Article."

42 **SECTION 3.19.(b)** G.S. 130A-335(f1) reads as rewritten:

43 "(f1) A preconstruction conference with the owner or developer, or an agent of the owner
44 or developer, and a representative of the local health department shall be required for any
45 authorization for wastewater system construction issued with an improvement permit under
46 G.S. 130-336 when the authorization is greater than five years old. Following the conference,
47 the local health department shall ~~issue a revised authorization~~ advise the owner or developer of
48 any rule changes for wastewater system construction ~~that includes incorporating current~~
49 technology that can reasonably be expected to improve the performance of the system. The
50 local health department shall issue a revised authorization for wastewater system construction
51 incorporating the rule changes upon the written request of the owner or developer."

1 **SECTION 3.19.(c)** G.S. 130A-336 reads as rewritten:

2 "**§ 130A-336. Improvement permit and authorization for wastewater system construction**
3 **required.**

4 ...

5 (b) The local health department shall issue an authorization for wastewater system
6 construction authorizing work to proceed and the installation or repair of a wastewater system
7 when it has determined after a field investigation that the system can be installed and operated
8 in compliance with this Article and rules adopted pursuant to this Article. This authorization for
9 wastewater system construction shall be valid for a period equal to the period of validity of the
10 improvement ~~permit, not to exceed five years, permit~~ and may be issued at the same time the
11 improvement permit is issued. No person shall commence or assist in the installation,
12 construction, or repair of a wastewater system unless an improvement permit and an
13 authorization for wastewater system construction have been obtained from the Department or
14 the local health department. No improvement permit or authorization for wastewater system
15 construction shall be required for maintenance of a wastewater system. The Department and the
16 local health department may impose conditions on the issuance of an improvement permit and
17 an authorization for wastewater system construction.

18 (c) Unless the Commission otherwise provides by rule, plans, and specifications for all
19 wastewater systems designed for the collection, treatment, and disposal of industrial process
20 wastewater shall be reviewed and approved by the Department prior to the issuance of an
21 authorization for wastewater system construction by the local health department.

22 (d) If a local health department repeatedly fails to issue or deny improvement permits
23 for conventional septic tank systems within 60 days of receiving completed applications for the
24 permits, then the Department of Environment and Natural Resources may withhold public
25 health funding from that local health department."
26

27 **REPEAL WASTE MANAGEMENT BOARD RULES**

28 **SECTION 3.20.(a)** The General Assembly finds that the statutory authority for the
29 Governor's Waste Management Board was repealed by S.L. 1993-501 and, therefore,
30 regulations previously promulgated by that Board are no longer enforceable or necessary.

31 **SECTION 3.20.(b)** The Secretary of Environment and Natural Resources shall
32 repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December
33 1, 2014. Until the effective date of the repeal of the rule required pursuant to this section, the
34 Secretary, the Department of Environment and Natural Resources, the Environmental
35 Management Commission, or any other political subdivision of the State shall not implement or
36 enforce 15A NCAC Chapter 14 (Governor's Waste Management Board).
37

38 **EXPAND DAILY FLOW DESIGN EXEMPTION FOR LOW-FLOW FIXTURES**

39 **SECTION 3.21.** Section 34(b) of Session Law 2013-413 reads as rewritten:

40 "**SECTION 34.(b)** Implementation. – Notwithstanding the Daily Flow for Design rates
41 listed for dwelling units in 15A NCAC 18A .1949(a) or for other establishments in Table No. 1
42 of 15A NCAC 18A .1949(b) (Sewage Flow Rates for Design Units), a wastewater system shall
43 be exempt from the Daily Flow for Design, and any other design flow standards that are
44 established by the Department of Health and Human Services or the Commission for Public
45 Health provided flow rates that are less than those listed in ~~Table No. 1 of 15A NCAC 18A~~
46 ~~.1949(b)~~ 15A NCAC 18A .1949 (Sewage Flow Rates for Design Units) can be achieved through
47 engineering design that utilizes low-flow fixtures and low-flow technologies and the design is
48 prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the
49 General Statutes. The Department and Commission may ~~establish~~ establish, by rule, lower
50 limits on reduced flow rates as necessary to ensure wastewater system integrity and protect
51 public health, safety, and ~~welfare~~ welfare, provided that the Commission relies on scientific

1 evidence specific to soil types found in North Carolina that the lower limits are necessary for
2 those soil types. Rules adopted pursuant to this section shall become effective as provided in
3 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
4 G.S. 150B-21.3(b2). Proposed daily design flows for wastewater systems that are calculated to
5 be less than 3,000 total gallons per day shall not require State review pursuant to 15A NCAC
6 18A .1938(e)."
7

8 **REPEAL OBSOLETE STATUTES**

9 **SECTION 3.22.** The following statues are repealed:

- 10 (1) G.S. 14-197. Using profane or indecent language on public highways;
11 counties exempt.
- 12 (2) G.S. 14-401.8. Refusing to relinquish party telephone line in emergency;
13 false statement of emergency.
14

15 **INCREASE CERTAIN PENALTIES FOR TAKING OF PROTECTED PLANTS**

16 **SECTION 3.23.(a).** G.S. 14-129 reads as rewritten:

17 **"§ 14-129. Taking, etc., of certain wild plants from land of another.**

18 No person, firm or corporation shall dig up, pull up or take from the land of another or from
19 any public domain, the whole or any part of any Venus flytrap (*Dionaea muscipula*), trailing
20 arbutus, Aaron's Rod (*Thermopsis caroliniana*), Bird-foot Violet (*Viola pedata*), Bloodroot
21 (*Sanguinaria canadensis*), Blue Dogbane (*Amsonia tabernaemontana*), Cardinal-flower
22 (*Lobelia cardinalis*), Columbine (*Aquilegia canadensis*), Dutchman's Breeches (*Dicentra*
23 *cucullaria*), Maidenhair Fern (*Adiantum pedatum*), Walking Fern (*Camptosorus rhizophyllus*),
24 Gentians (*Gentiana*), Ground Cedar, Running Cedar, Hepatica (*Hepatica americana* and
25 *acutiloba*), Jack-in-the-Pulpit (*Arisaema triphyllum*), Lily (*Lilium*), Lupine (*Lupinus*),
26 Monkshood (*Aconitum uncinatum* and *reclinatum*), May Apple (*Podophyllum peltatum*),
27 Orchids (all species), Pitcher Plant (*Sarracenia*), Shooting Star (*Dodecatheon meadia*), Oconee
28 Bells (*Shortia galacifolia*), Solomon's Seal (*Polygonatum*), Trailing Christmas
29 (*Greens-Lycopodium*), Trillium (*Trillium*), Virginia Bluebells (*Mertensia virginica*), and
30 Fringe Tree (*Chionanthus virginicus*), American holly, white pine, red cedar, hemlock or other
31 coniferous trees, or any flowering dogwood, any mountain laurel, any rhododendron, or any
32 ground pine, or any Christmas greens, or any Judas tree, or any leucothea, or any azalea,
33 without having in his possession a permit to dig up, pull up or take such plants, signed by the
34 owner of such land, or by his duly authorized agent. Any person convicted of violating the
35 provisions of this section shall be guilty of a Class 3 misdemeanor only punished by a fine of
36 not less than ~~ten dollars (\$10.00)~~ seventy-five dollars (\$75.00) nor more than ~~fifty dollars~~
37 ~~(\$50.00)~~ one hundred seventy-five dollars (\$175.00) for each ~~offense~~ offense, with each plant
38 taken in violation of this section constituting a separate offense. The Clerk of Court for the
39 jurisdiction in which a conviction occurs under this section involving any species listed in this
40 section that also appears on the North Carolina Protected Plants list created under the authority
41 granted by Article 19B of Chapter 106 of the General Statutes shall report the conviction to the
42 Plant Conservation Board so the Board may consider a civil penalty under the authority of that
43 Article. ~~The provisions of this section shall not apply to the Counties of Cabarrus, Carteret,~~
44 ~~Catawba, Cherokee, Chowan, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin,~~
45 ~~Gaston, Granville, Hertford, McDowell, Pamlico, Pender, Person, Richmond, Rockingham,~~
46 ~~Rowan and Swain."~~

47 **SECTION 3.23.(b)** G.S. 106-202.19 reads as rewritten:

48 **"§ 106-202.19. Unlawful acts; penalties; enforcement.**

49 (a) Unless the conduct is covered under some other provision of law providing greater
50 punishment, it is unlawful to engage in any of the following conduct:

(1) To uproot, dig, take or otherwise disturb or remove for any purpose from the lands of another, any plant on a protected plant list without a written permit from the owner which is dated and valid for no more than 180 days and which indicates the species or higher taxon of plants for which permission is granted; except that the incidental disturbance of protected plants during agricultural, forestry or development operations is not illegal so long as the plants are not collected for sale or commercial use.

...

(a1) Any person convicted of violating this Article, or any rule of the Board adopted pursuant to this Article shall be guilty of a Class 2 misdemeanor. Each illegal movement or distribution of a protected plant shall constitute a separate violation. In addition, if any person continues to violate or further violates any provision of this Article after written notice from the Board, the court may determine that each day during which the violation continued or is repeated constitutes a separate violation subject to the foregoing penalties.

(a2) A civil penalty of not more than two thousand dollars (\$2,000) ~~may~~ shall be assessed by the Board against any person guilty of violating this Article a second or subsequent time. The clear proceeds of civil penalties assessed pursuant to this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

...."

SECTION 3.23.(c) This section becomes effective December 1, 2014, and applies to offenses committed on or after that date.

INCREASE PENALTIES FOR PARKING IN HANDICAPPED SPACE WITHOUT REQUIRED PLACARD

SECTION 3.24.(a) G.S. 20-37.6 reads as rewritten:

"§ 20-37.6. Parking privileges for handicapped drivers and passengers.

...

(d) Designation of Parking Spaces. – Designation of parking spaces for handicapped persons on streets and public vehicular areas shall comply with G.S. 136-30. A sign designating a parking space for handicapped persons ~~shall~~ may state the maximum penalty for parking in the space in violation of the law. A sign designating a parking space for handicapped persons shall not state the incorrect maximum penalty for parking in the space in violation of the law.

...

(f) Penalties for Violation. –

(1) A violation of G.S. 20-37.6(e)(1), ~~(2)(2)~~, or (3) is an infraction which carries a penalty of at least ~~one~~ three hundred dollars ~~(\$100.00)~~ (\$300.00) but not more than ~~two~~ five hundred ~~fifty~~ dollars ~~(\$250.00)~~ (\$500.00), and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be prima facie evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the Division. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.

...."

SECTION 3.24.(b) This section becomes effective December 1, 2014, and applies to violations committed on or after that date.

REPEAL OUTDATED PUBLIC UTILITIES STATUTES OR REPORTS

1 **SECTION 3.25.(a)** G.S. 62-36A and G.S. 62-36.1 are repealed.

2 **SECTION 3.25.(b)** G.S. 62-133.2(g) is repealed.

3 **SECTION 3.25.(c)** Section 14 of S.L. 2002-4 is repealed.

4 **SECTION 3.25.(d)** Section 14 of S.L. 2007-397 is repealed.

5 **SECTION 3.25.(e)** Section 6.1 of S.L. 1995-27 is repealed.

6
7 **REPEAL ENERGY AUDIT REQUIREMENTS**

8 **SECTION 3.26.** G.S. 143-64.12 reads as rewritten:

9 "**§ 143-64.12. Authority and duties of the Department; State agencies and State**
10 **institutions of higher learning.**

11 (a) The Department of Environment and Natural Resources through the State Energy
12 Office shall develop a comprehensive program to manage energy, water, and other utility use
13 for State agencies and State institutions of higher learning and shall update this program
14 annually. Each State agency and State institution of higher learning shall develop and
15 implement a management plan that is consistent with the State's comprehensive program under
16 this subsection to manage energy, water, and other utility use, and that addresses any findings
17 or recommendations resulting from the energy audit required by subsection (b1) of this section.
18 The energy consumption per gross square foot for all State buildings in total shall be reduced
19 by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy
20 consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher
21 learning shall update its management plan ~~annually~~ biennially and include strategies for
22 supporting the energy consumption reduction requirements under this subsection. Each
23 community college shall submit to the State Energy Office ~~an annual~~ a biennial written report of
24 utility consumption and costs. Management plans submitted ~~annually~~ biennially by State
25 institutions of higher learning shall include all of the following:

- 26 (1) Estimates of all costs associated with implementing energy conservation
27 measures, including pre-installation and post-installation costs.
- 28 (2) The cost of analyzing the projected energy savings.
- 29 (3) Design costs, engineering costs, pre-installation costs, post-installation costs,
30 debt service, and any costs for converting to an alternative energy source.
- 31 (4) An analysis that identifies projected annual energy savings and estimated
32 payback periods.

33 ...

34 (b1) The Department of Administration, as part of the Facilities Condition and
35 Assessment Program, shall identify and recommend energy conservation maintenance and
36 operating procedures that are designed to reduce energy consumption within the facility of a
37 State agency or a State institution of higher learning and that require no significant expenditure
38 of funds. Every State agency or State institution of higher learning shall implement these
39 recommendations. Where energy management equipment is proposed for any facility of a State
40 agency or of a State institution of higher learning, the maximum interchangeability and
41 compatibility of equipment components shall be required. ~~As part of the Facilities Condition~~
42 ~~and Assessment Program under this section, the Department of Administration, in consultation~~
43 ~~with the State Energy Office, shall develop an energy audit and a procedure for conducting~~
44 ~~energy audits. Every five years the Department shall conduct an energy audit for each State~~
45 ~~agency or State institution of higher learning, and the energy audits conducted shall serve as a~~
46 ~~preliminary energy survey. The State Energy Office shall be responsible for system-level~~
47 ~~detailed surveys.~~

48 (b2) ~~The Department of Administration shall submit a report of the energy audit required~~
49 ~~by subsection (b1) of this section to the affected State agency or State institution of higher~~
50 ~~learning and to the State Energy Office. The State Energy Office shall review each audit and, in~~
51 ~~consultation with the affected State agency or State institution of higher learning, incorporate~~

1 the audit findings and recommendations into the management plan required by subsection (a)
2 of this section.

3 (c) through (g) Repealed by Session Laws 1993, c. 334, s. 4.

4 (h) ~~When conducting a facilities condition and assessment under this section, the~~
5 ~~Department of Administration shall identify and recommend to the State Energy Office any~~
6 ~~facility of a State agency or State institution of higher learning as suitable for building~~
7 ~~commissioning to reduce energy consumption within the facility or as suitable for installing an~~
8 ~~energy savings measure pursuant to a guaranteed energy savings contract under Part 2 of this~~
9 ~~Article.~~

10 (i) ~~Consistent with G.S. 150B-2(8a)h., the Department of Administration may adopt~~
11 ~~architectural and engineering standards to implement this section.~~

12 (j) The State Energy Office shall submit a report by December 1 of ~~each~~every
13 odd-numbered year to the Joint Legislative ~~Commission on Governmental Operations~~Energy
14 Policy Commission describing the comprehensive program to manage energy, water, and other
15 utility use for State agencies and State institutions of higher learning required by subsection (a)
16 of this section. The report shall also contain the following:

- 17 (1) A comprehensive overview of how State agencies and State institutions of
18 higher learning are managing energy, water, and other utility use and
19 achieving efficiency gains.
- 20 (2) Any new measures that could be taken by State agencies and State
21 institutions of higher learning to achieve greater efficiency gains, including
22 any changes in general law that might be needed.
- 23 (3) A summary of the State agency and State institutions of higher learning
24 management plans required by subsection (a) of this section ~~and the energy~~
25 ~~audits required by subsection (b1) of this section.~~
- 26 (4) A list of the State agencies and State institutions of higher learning that did
27 and did not submit management plans required by subsection (a) of this
28 section ~~and a list of the State agencies and State institutions of higher~~
29 ~~learning that received an energy audit.~~section.
- 30 (5) Any recommendations on how management plans can be better managed
31 and implemented."
32

33 COASTAL STORMWATER GRANDFATHER

34 **SECTION 3.27.(a)** The definitions set out in G.S. 143-212, G.S. 143-213, and 15A
35 NCAC 2H .1002 apply to this section.

36 **SECTION 3.27.(b)** 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
37 Counties). – Until the effective date of the revised permanent rule that the Commission is
38 required to adopt pursuant to Section 3.27(d) of this section, the Commission and the
39 Department shall implement 15A NCAC 02H .1005 (Stormwater Requirements: Coastal
40 Counties) as provided in Section 3.27(c) of this section.

41 **SECTION 3.27.(c)** Implementation. – Notwithstanding Paragraph (h) of 15A
42 NCAC 02H .1005 (Stormwater Requirements: Coastal Counties), the provisions and
43 requirements applicable to any grandfathered development activity subject to Subparagraph
44 (a)(2) of 15A NCAC 02H .1005 shall also be applicable to an expansion of the development
45 activity. For purposes of this subsection, "grandfathered development activity" means
46 development activity that is regulated by provisions and requirements of 15A NCAC 02H
47 .1005 (Stormwater Requirements: Coastal Counties) that was effective at the time of the
48 original issuance of any of the authorizations listed in Subparagraph (h)(2) of 15A NCAC 02H
49 .1005, because the authorization meets the criteria set forth in that Subparagraph; and
50 "expansion of the development activity" means development activity conducted on a

1 contiguous property or properties under a subdivision plat approved by the local government
2 prior to July 3, 2012.

3 **SECTION 3.27.(d)** Additional Rule-Making Authority. – The Commission shall
4 adopt a rule to amend 15A NCAC 02H .1005 (Stormwater Requirements: Coastal Counties)
5 consistent with Section 3.27(c) of this section. Notwithstanding G.S. 150B-19(4), the rule
6 adopted by the Commission pursuant to this section shall be substantively identical to the
7 provisions of Section 3.28(c) of this act. Rules adopted pursuant to this section are not subject
8 to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this
9 section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written
10 objections had been received as provided by G.S. 150B-21.3(b2).

11 **SECTION 3.27.(e)** Sunset. – Section 3.27(c) of this section expires on the date that
12 rules adopted pursuant to Section 3.27(d) of this section become effective.

13 **PESTICIDE USE FOR MOLES**

14 **SECTION 3.28.** G.S. 113-300.2 is amended by adding a new subsection to read:

15 "(g) Notwithstanding any other provision of law, it is lawful to use any pesticide
16 registered by the Pesticide Board to control any species of mole other than the Star-Nosed mole
17 (Condyluria cristata parva), provided that (i) all rules regulating the application of pesticides
18 adopted by the Pesticide Board are followed, and (ii) pesticides used to control these species
19 are applied in a manner that minimizes hazards to nontarget species."
20

21 **CLARIFY PERIODIC INSPECTIONS AUTHORITY OF HOUSING FINANCE** 22 **AGENCY**

23 **SECTION 3.29.(a)** G.S. 153A-364 reads as rewritten:

24 **"§ 153A-364. Periodic inspections for hazardous or unlawful conditions.**

25 ...

26 (b) A county may require periodic inspections as part of a targeted effort within a
27 geographic area that has been designated by the county commissioners. The county shall not
28 discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice
29 to all owners and residents of properties in the affected area about the periodic inspections plan
30 and information regarding a public hearing regarding the plan; (ii) hold a public hearing
31 regarding the plan; and (iii) establish a plan to address the ability of low-income residential
32 property owners to comply with minimum housing code standards. A residential building or
33 structure that is subject to periodic inspections by the North Carolina Housing Finance Agency
34 (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the
35 Agency has issued a finding that the building or structure is in compliance with federal
36 standards established by the United States Department of Housing and Urban Development to
37 assess the physical condition of residential property. The owner or manager of a residential
38 building or structure subject to periodic inspections by the Agency shall, within 10 days of
39 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
40 the Agency showing that the residential building or structure is in compliance with federal
41 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
42 Results Letter as provided in this subsection, the residential building or structure shall be
43 subject to periodic inspections as provided in this subsection until the Compliance Results
44 Letter is submitted to the inspection department.

45"

46 **SECTION 3.29.(b)** G.S. 160A-424 reads as rewritten:

47 **"§ 160A-424. Periodic inspections.**

48 ...

49 (b) A city may require periodic inspections as part of a targeted effort within a
50 geographic area that has been designated by the city council. The municipality shall not
51

1 discriminate in its selection of areas or housing types to be targeted and shall (i) provide notice
2 to all owners and residents of properties in the affected area about the periodic inspections plan
3 and information regarding a public hearing regarding the plan; (ii) hold a public hearing
4 regarding the plan; and (iii) establish a plan to address the ability of low-income residential
5 property owners to comply with minimum housing code standards. A residential building or
6 structure that is subject to periodic inspections by the North Carolina Housing Finance Agency
7 (hereinafter "Agency") shall not be subject to periodic inspections under this subsection if the
8 Agency has issued a finding that the building or structure is in compliance with federal
9 standards established by the United States Department of Housing and Urban Development to
10 assess the physical condition of residential property. The owner or manager of a residential
11 building or structure subject to periodic inspections by the Agency shall, within 10 days of
12 receipt, submit to the inspection department a copy of the Compliance Results Letter issued by
13 the Agency showing that the residential building or structure is in compliance with federal
14 housing inspection standards. If the owner or manager fails to submit a copy of the Compliance
15 Results Letter as provided in this subsection, the residential building or structure shall be
16 subject to periodic inspections as provided in this subsection until the Compliance Results
17 Letter is submitted to the inspection department.

18"

19 SECURITY GRILLES

20 **SECTION 3.30.(a)** Notwithstanding Section 1008.1.4.5 of the 2012 NC State
21 Building Code (Fire Code), horizontal sliding or vertical security grilles shall be permitted at
22 all exits or exit access doorways, provided that the grilles are openable from the inside without
23 the use of a key or special knowledge or effort during periods that the space is occupied by
24 authorized persons and that the grilles remain secured in the full-open position during the
25 period of occupancy by the general public.

26 **SECTION 3.30.(b)** The Building Code Council shall adopt a rule to amend Section
27 1008.1.4.5 of the 2012 NC State Building Code (Fire Code) consistent with Section 3.30(a) of
28 this section.

29 **SECTION 3.30.(c)** Section 3.30(a) of this section expires on the date that the rule
30 adopted pursuant to Section 3.30(b) of this section becomes effective.

31 REWRITE LANDSCAPE CONTRACTOR LICENSING STATUTES

32 **SECTION 3.31.(a)** G.S. 89D-1 through G.S. 89D-10 are repealed.

33 **SECTION 3.31.(b)** Chapter 89D of the General Statutes is amended by adding the
34 following new sections to read:

35 "§ 89D-11. Definitions.

36 The following definitions apply in this Chapter:

37 (1) Board. – The North Carolina Landscape Contractors' Licensing Board.

38 (2) Landscape construction or contracting. – The act of providing services as a
39 landscape contractor, as defined in this section, for compensation or other
40 consideration.

41 (3) Landscape contractor. – Any person who, for compensation or other
42 consideration, does any of the following:

43 a. Engages in the business requiring the art, experience, ability,
44 knowledge, science, and skill to prepare contracts and bid for the
45 performance of landscape services, including installing, planting,
46 repairing, and managing gardens, lawns, shrubs, vines, trees, or other
47 decorative vegetation, including the finish grading and preparation of
48 plots and areas of land for decorative utilitarian treatment and
49 arrangement.

- 1 b. Practices the act of horticulture consultation or planting design for
2 employment purposes.
- 3 c. Constructs, installs, or maintains landscape drainage systems and
4 cisterns; provided the landscaping contractor makes no connection to
5 pipes, fixtures, apparatus, or appurtenances installed upon the
6 premises, or in a building, to supply water thereto or convey sewage
7 or other waste therefrom as defined in G.S. 87-21.
- 8 d. Designs, installs, or maintains low-voltage landscape lighting
9 systems; provided (i) the work does not exceed the scope of the
10 exception set forth in G.S. 87-43.1(7); and (ii) the low-voltage
11 lighting systems do not exceed 50 volts and constitute a Class II or
12 Class III cord and plug connected power system.
- 13 e. Engages in the construction of garden pools, retaining walls, walks,
14 patios, or other decorative landscape features.
- 15 (4) Person. – An individual, firm, partnership, association, corporation, or other
16 legal entity.

17 **"§ 89D-12. License required; use of seal; posting license.**

18 (a) Except as otherwise provided in this Chapter, no person shall engage in the practice
19 of landscape construction or contracting, use the designation "landscape contractor," or
20 advertise using any title or description that implies licensure as a landscape contractor unless
21 the person is licensed as a landscape contractor as provided by this Chapter. All landscape
22 construction or contracting performed by a partnership, association, corporation, firm, or other
23 group shall be performed under an individual who is readily available to exercise supervision
24 over the landscape construction and contracting work and who is licensed by the Board under
25 this Chapter.

26 (b) Nothing in this Chapter shall be construed to authorize a landscape contractor to
27 engage in any of the following:

- 28 (1) The practice of landscape architecture as defined in G.S. 89A-1.
- 29 (2) The practice of engineering as defined in G.S. 89C-3.
- 30 (3) Practice as a well contractor certified under Article 7A of Chapter 87 of the
31 General Statutes.
- 32 (4) The practice of irrigation contracting as defined in G.S. 89G-1.
- 33 (5) The practice of architecture as defined in G.S. 83A-1.
- 34 (6) The practice of plumbing, heating group number one, heating group number
35 two, heating group number three, fire sprinkler, or fuel piping contracting as
36 defined in G.S. 87-21; provided the landscaping contractor may install
37 piping, fittings, valves, and associated components for the purpose of
38 landscape contracting that is downstream of a potable water source,
39 groundwater source, or grey water source, and downstream of a backflow
40 prevention assembly.
- 41 (7) The practice of electrical contracting as defined in G.S. 87-43.

42 (c) A landscape contractor licensed under this Chapter is not required to be licensed as
43 a general contractor under Article 1 of Chapter 87 of the General Statutes if the licensed
44 landscape contractor is performing landscape construction or contracting work valued at an
45 amount greater than thirty thousand dollars (\$30,000).

46 (d) Upon licensure by the Board, each landscape contractor shall obtain a seal of the
47 design authorized by the Board and bearing the name of the licensee, the number of the license,
48 and the legend "N.C. Licensed Landscape Contractor." A landscape contractor may use the seal
49 only while the license is valid.

50 (e) Every landscape contractor issued a license under this Chapter shall display the
51 license conspicuously in the landscape contractor's place of business. Every landscape

1 contractor shall display the license number issued to the contractor by the Board on all business
2 cards, contracts, and vehicles used by the contractor in the landscape contracting business.

3 **§ 89D-13. Exemptions.**

4 The provisions of this Chapter shall not apply to the following:

- 5 (1) Any federal, State, or local governmental agency performing landscaping on
6 public property.
- 7 (2) The North Carolina Department of Transportation (NCDOT). However, for
8 landscape installations or establishment periods for any project that exceeds
9 the current contract amount requiring performance and payment bonds
10 according to State law, NCDOT shall require a licensed landscape contractor
11 to perform the work. NCDOT, at its discretion, may require a licensed
12 landscape contractor for landscape projects of any cost.
- 13 (3) Any property owner performing landscape work on his or her own property.
- 14 (4) Any person or business owning or operating a golf course.
- 15 (5) Any landscaping work where the price of all contracts for labor, material,
16 and other items for a given job site during any consecutive 12-month period
17 is less than twenty-five thousand dollars (\$25,000). A local governmental
18 unit shall not enact a local ordinance or regulation requiring licensure for
19 landscaping work performed pursuant to this subdivision.
- 20 (6) A general contractor licensed under Article 1 of Chapter 87 of the General
21 Statutes who possesses a classification under G.S. 87-10(b) as a building
22 contractor, a residential contractor, or a public utilities contractor.
- 23 (7) Any person or business licensed as an electrical contractor under Article 4 of
24 Chapter 87 of the General Statutes who is designing, installing, or
25 maintaining any electric work, wiring, devices, appliances, or equipment.
- 26 (8) Any person or business licensed as a plumbing contractor under Article 2 of
27 Chapter 87 of the General Statutes who is installing pipes, fixtures,
28 apparatus, or appurtenances to supply water thereto or convey sewage or
29 other waste therefrom, including the installation, repair, or maintenance of
30 water mains, water taps, services lines, water meters, or backflow prevention
31 assemblies supplying water for irrigation systems or repairs to an irrigation
32 system.
- 33 (9) A professional engineer licensed pursuant to Chapter 89C of the General
34 Statutes.
- 35 (10) A professional landscape architect licensed under Chapter 89A of the
36 General Statutes.
- 37 (11) An individual or a business engaged in any of the following activities while
38 performing that activity:
 - 39 a. Clearing and grading plots and areas of land.
 - 40 b. Erosion control.
 - 41 c. Arboriculture, including consultations on pruning and removal of
42 trees.
 - 43 d. The installation of sod, seed, or plugs by sod producers certified by
44 the Plant Industry Division of the North Carolina Department of
45 Agriculture and Consumer Services.
 - 46 e. Landscape construction performed by utilities contractors for the
47 purpose of grading and erosion control.
 - 48 f. Lawn mowing, turf edging, and debris removal services.
 - 49 g. Turf management or lawn care services only, including fertilization,
50 aeration, weed control, or other turf management or lawn care
51 practices other than mowing or edging.

1 h. Design, installation, and maintenance of on-site wastewater disposal
2 or reuse systems within the on-site wastewater permit specifications.

3 (12) Any person performing landscaping work on a farm for use in agriculture
4 production, farming, or ranching.

5 **"§ 89D-14. The North Carolina Landscape Contractors' Licensing Board.**

6 (a) There is created the North Carolina Landscape Contractors' Licensing Board. The
7 Board shall consist of nine members appointed as follows:

8 (1) One member appointed by the Governor who is a member of the general
9 public.

10 (2) One member appointed by the Commissioner of Agriculture pursuant to
11 recommendations from The North Carolina Green Industry Council.

12 (3) One member appointed by the Board of Directors of the North Carolina
13 Nursery and Landscape Association, Inc., who is a practicing nurseryman
14 operating a nursery certified by the North Carolina Department of
15 Agriculture and Consumer Services Plant Industry Division.

16 (4) Four members who are licensed landscape contractors in the business of
17 landscape construction or contracting. One of the four members shall be
18 appointed by the General Assembly upon the recommendation of the
19 Speaker of the House of Representatives pursuant to recommendations from
20 The North Carolina Green Industry Council; one shall be appointed by the
21 General Assembly upon the recommendation of the President Pro Tempore
22 of the Senate pursuant to recommendations from the Carolinas Irrigation
23 Association, who is also a licensed irrigation contractor; and two shall be
24 appointed by the Board of Directors of the North Carolina Nursery and
25 Landscape Association, Inc.

26 (5) One member appointed by the Board of Directors of the North Carolina
27 Chapter of the American Society of Landscape Architects who is a
28 registered landscape architect.

29 (6) One member appointed by the President of The University of North Carolina
30 from within the land grant university community who is knowledgeable in
31 landscaping methods and practices.

32 (b) All appointments shall be for three-year terms. No member shall serve more than
33 two complete consecutive terms.

34 (c) A vacancy on the Board created by death, resignation, or otherwise shall be filled in
35 the same manner as the original appointment, except that all unexpired terms of Board
36 members appointed by the General Assembly shall be filled in accordance with G.S. 120-122.
37 Appointees to fill vacancies shall serve the remainder of the unexpired term and until their
38 successors are appointed and qualified.

39 (d) The Board shall elect annually a chair and other officers as it deems necessary to
40 carry out the purposes of this Chapter and shall hold meetings at least twice a year. A majority
41 of the Board shall constitute a quorum.

42 (e) Each member of the Board may receive per diem and reimbursement for travel and
43 subsistence as set forth in G.S. 93B-5.

44 (f) The Board shall be entitled to the services of the Attorney General in connection
45 with the affairs of the Board or may, in its discretion, employ an attorney to assist or represent
46 it in the enforcement of this Chapter.

47 **"§ 89D-15. Powers and duties.**

48 The Board shall have the following powers and duties:

49 (1) Administer and enforce the provisions of this Chapter.

50 (2) Adopt, amend, or repeal rules to carry out the provisions of this Chapter.

- 1 (3) Examine and determine the qualifications and fitness of applicants for
2 licensure and licensure renewal.
- 3 (4) Issue, renew, deny, restrict, suspend, or revoke licenses.
- 4 (5) Reprimand or otherwise discipline licensees under this Chapter.
- 5 (6) Receive and investigate complaints from members of the public.
- 6 (7) Conduct investigations to determine whether violations of this Chapter exist
7 or constitute grounds for disciplinary action against licensees under this
8 Chapter.
- 9 (8) Conduct administrative hearings in accordance with Article 3A of Chapter
10 150B of the General Statutes.
- 11 (9) Seek injunctive relief through any court of competent jurisdiction for
12 violations of this Chapter.
- 13 (10) Collect fees required by G.S. 89D-21 and any other monies permitted by law
14 to be paid to the Board.
- 15 (11) Require licensees to file and maintain an adequate surety bond.
- 16 (12) Establish and approve continuing education requirements for persons
17 licensed under this Chapter.
- 18 (13) Employ a secretary-treasurer and any other clerical personnel the Board
19 deems necessary to carry out the provisions of this Chapter and to fix
20 compensation for employees.
- 21 (14) Maintain a record of all proceedings conducted by the Board and make
22 available to licensees and other concerned parties an annual report of all
23 Board action.
- 24 (15) Adopt and publish a code of professional conduct for all persons licensed
25 under this Chapter.
- 26 (16) Adopt and publish a code of minimum practice standards for landscape
27 construction and contracting.
- 28 (17) Adopt a seal containing the name of the Board for use on licenses and
29 official reports issued by the Board.

30 **§ 89D-16. Application for license; qualifications; examination; issuance.**

31 (a) Upon application to the Board and payment of the required fees, an applicant for
32 licensure as a landscape contractor may sit for the examination if the applicant submits
33 evidence demonstrating the applicant's qualifications for licensure under this Chapter as
34 prescribed in rules adopted by the Board and meets all of the following qualifications:

- 35 (1) Is at least 18 years of age.
- 36 (2) Is of good moral character as determined by the Board.
- 37 (3) Provides evidence of business identification as required by the Board.
- 38 (4) Files with the Board and maintains a corporate surety bond executed by a
39 company authorized to do business in this State or an irrevocable letter of
40 credit issued by an insured institution. The surety bond or the letter of credit
41 shall be in the amount of ten thousand dollars (\$10,000). The surety bond or
42 letter of credit shall be approved by the Board as to form and shall be
43 conditioned upon the obligor faithfully conforming to and abiding by the
44 provisions of this Chapter. Any person claiming to be injured by an act of a
45 licensed landscape contractor that constitutes a violation of this Chapter may
46 institute an action to recover against the licensee and the surety.

47 (b) If the applicant meets all the qualifications in subsection (a) of this section, the
48 applicant shall be required to pass an examination administered by the Board before the Board
49 may issue the license. The Board shall establish the scope and subject matter of the
50 examination to be administered. The Board shall administer examinations at least twice a year
51 at a time and place to be determined by the Board.

1 (c) When the Board determines that an applicant has met all the qualifications for
2 licensure, submitted the required fee, and passed the examination, the Board shall issue a
3 license to the applicant.

4 **"§ 89D-17. Corporations; partnerships; persons doing business under trade name.**

5 (a) The Board may issue a license in the name of a corporation if the corporation
6 complies with the following:

7 (1) One or more officers or full-time employees, or both, empowered to act for
8 the corporation are individuals licensed under this Chapter.

9 (2) Only the officers or employees described in subdivision (1) of this
10 subsection execute contracts for landscape construction or contracting in the
11 name of a corporation and are readily available to exercise supervision over
12 the work performed pursuant to the contract.

13 (b) The Board may issue a license in the name of a limited liability company if the
14 company complies with the following:

15 (1) One or more managers, as defined in G.S. 57D-1-03, executives, or full-time
16 employees, or a combination thereof, are individuals licensed under this
17 Chapter.

18 (2) Only the managers, executives, or employees described in subdivision (1) of
19 this subsection execute contracts for landscape construction or contracting in
20 the name of the limited liability company and are readily available to
21 exercise supervision over the work performed pursuant to the contract.

22 (c) The Board may issue a license in the name of a partnership if the partnership
23 complies with the following:

24 (1) One or more general partners or full-time employees empowered to act for
25 the partnership are individuals licensed under this Chapter.

26 (2) Only the partners or employees described in subdivision (1) of this
27 subsection execute contracts for landscape construction or contracting in the
28 name of the partnership and are readily available to exercise supervision
29 over the work performed pursuant to the contract.

30 (d) The Board may issue a license in an assumed or designated trade name if the owner
31 of the business complies with the following:

32 (1) The owner or one or more full-time employees empowered to act for the
33 owner is an individual licensed under this Chapter.

34 (2) Only the persons described in subdivision (1) of this subsection execute
35 contracts for landscape construction or contracting in the assumed or
36 designated trade name of the business and are readily available to exercise
37 supervision over the work performed pursuant to the contract.

38 (e) When the Board issues a license under this section, the Board shall indicate on the
39 license the name and license number of the individual licensee connected to the corporation,
40 partnership, or business conducted under an assumed or designated trade name.

41 (f) A person licensed pursuant to this section shall be readily available to exercise
42 supervision over a contract for landscape construction or contracting until the contract is
43 completed.

44 (g) When a licensee executes a contract for landscape construction or contracting in any
45 capacity other than as a sole proprietor contracting on the licensee's own behalf, the person on
46 whose behalf the licensee is executing the contract shall be licensed under this section.

47 (h) A corporation, partnership, or person doing business under an assumed or
48 designated trade name shall notify the Board in accordance with rules adopted by the Board if
49 an individual licensee who is indicated in the license issued under this section ceases to be an
50 officer, partner, owner, or employee of the corporation, partnership, or person doing business
51 under the assumed or designated trade name. If the corporation, partnership, or person no

1 longer has an officer, general partner, owner, or employee described in subdivision (a)(1),
2 (b)(1), or (c)(1) of this section, the corporation, partnership, or person shall have 120 days from
3 the date the officer, general partner, owner, or employee ceases the relationship with the
4 corporation, partnership, or person to satisfy the requirements described in subdivision (a)(1),
5 (b)(1), or (c)(1) of this section. The Board may, in its discretion, grant the corporation,
6 partnership, or person a period greater than 120 days to satisfy the requirements described in
7 subdivision (a)(1), (b)(1), or (c)(1) of this section as it deems appropriate. After 120 days, or a
8 time period greater than 120 days as approved by the Board, if the corporation, partnership, or
9 person does not have an officer, general partner, owner, or employee as described in
10 subdivision (a)(1), (b)(1), or (c)(1) of this section, the license issued under this section is
11 automatically suspended and the corporation, partnership, or person shall cease practicing
12 landscape construction or contracting.

13 **"§ 89D-18. Licensing of nonresidents.**

14 (a) Definitions. – The following definitions apply in this section:

15 (1) Delinquent income tax debt. – The amount of income tax due as stated in a
16 final notice of assessment issued to a taxpayer by the Secretary of Revenue
17 when the taxpayer no longer has the right to contest the amount.

18 (2) Foreign corporation. – A corporation as defined in G.S. 55-1-40.

19 (3) Foreign entity. – A foreign corporation, a foreign limited liability company,
20 or a foreign partnership.

21 (4) Foreign limited liability company. – A company as defined in
22 G.S. 57D-1-03.

23 (5) Foreign partnership. – One of the following that does not have a permanent
24 place of business in this State:

25 a. A foreign limited partnership as defined in G.S. 59-102.

26 b. A general partnership formed under the laws of a jurisdiction other
27 than this State.

28 (b) Licensing. – Except as provided in this section, the Board may issue a license to a
29 nonresident individual or a foreign entity that meets the requirements for licensure under this
30 Chapter.

31 (c) Certificate of Authority Required. – The Board shall not issue a license for a foreign
32 corporation unless the corporation has obtained a certificate of authority from the Secretary of
33 State pursuant to Article 15 of Chapter 55 of the General Statutes. The Board shall not issue a
34 license for a foreign limited liability company unless the company has obtained a certificate of
35 authority from the Secretary of State pursuant to Article 7 of Chapter 57D of the General
36 Statutes.

37 (d) Information. – The Board, upon request, shall provide the Secretary of Revenue the
38 name, address, and tax identification number of every nonresident individual and foreign entity
39 licensed by the Board. The information to be provided under this section shall be in a form
40 required by the Secretary of Revenue.

41 (e) Delinquents. – If the Secretary of Revenue determines that any nonresident
42 individual or foreign entity licensed by the Board owes a delinquent income tax debt, the
43 Secretary of Revenue may notify the Board of the nonresident individual and foreign entity and
44 instruct the Board not to renew the nonresident individual or foreign entity's license. The Board
45 shall not renew the license of a nonresident individual or foreign entity identified by the
46 Secretary of Revenue unless the Board receives a written statement from the Secretary that (i)
47 the debt has been paid or (ii) the debt is being paid pursuant to an installment agreement.

48 **"§ 89D-19. Reciprocity.**

49 The Board may issue a license, without examination, to any person who is a landscape
50 contractor licensed, certified, or registered in another state or country if the requirements for

1 licensure, certification, or registration in the other state or country are substantially equivalent
2 to the requirements for licensure in this State.

3 **"§ 89D-20. License renewal and continuing education.**

4 (a) Every license issued under this Chapter shall be renewed on or before the first day
5 of August of each year. Any person who desires to continue to practice shall apply for a license
6 renewal and shall submit the required fee. Licenses that are not renewed shall be automatically
7 revoked. A license may be renewed at any time within one year after its expiration if (i) the
8 applicant pays the required renewal fee and late renewal fee, (ii) the Board finds that the
9 applicant has not used the license in a manner inconsistent with the provisions of this Chapter
10 or engaged in the practice of landscape construction or contracting after notice of revocation,
11 and (iii) the applicant is otherwise eligible for licensure under the provisions of this Chapter.
12 When necessary, the Board may require licensees to demonstrate continued competence as a
13 condition of license renewal.

14 (b) As a condition of license renewal, a licensee shall meet the continuing education
15 requirements set by the Board. Each licensee shall complete seven continuing education units
16 per year. The Board may suspend a licensee's license for 30 days for failure to obtain
17 continuing education units required by this subsection. Upon payment of a reinstatement fee,
18 submitting to the Board proof of the continuing education units required by this subsection, and
19 payment of the license renewal fee and late renewal fee, the licensee's license shall be
20 reinstated. Failure to request a reinstatement of the license and failure to pay the reinstatement
21 fee, renewal fee, and late renewal fee shall result in the forfeiture of a license. Upon forfeiture,
22 a person shall be required to submit a new application and retake the examination as provided
23 in this Chapter.

24 **"§ 89D-21. Expenses and fees.**

25 (a) The Board may impose the following fees not to exceed the amounts listed below:

26	(1) <u>Application fee</u>	<u>\$100.00</u>
27	(2) <u>Examination fee</u>	<u>250.00</u>
28	(3) <u>Individual license fee and individual license renewal</u>	<u>100.00</u>
29	(4) <u>Initial corporate, limited liability company, partnership,</u>	
30	<u>or trade name license</u>	<u>100.00</u>
31	(5) <u>Corporate, limited liability company, partnership,</u>	
32	<u>or trade-name license renewal</u>	<u>100.00</u>
33	(6) <u>Late renewal fee</u>	<u>50.00</u>
34	(7) <u>Reinstatement fee</u>	<u>250.00</u>
35	(8) <u>License by reciprocity</u>	<u>250.00</u>
36	(9) <u>Duplicate license</u>	<u>25.00</u>

37 (b) When the Board uses a testing service for the preparation, administration, or grading
38 of examinations, the Board may charge the applicant the actual cost of the examination services
39 and a prorated portion of the examination fee.

40 **"§ 89D-22. Disciplinary action.**

41 (a) The Board may deny, restrict, suspend, or revoke a license or refuse to issue or
42 renew a license if a licensee or applicant does any of the following:

- 43 (1) Employs the use of fraud, deceit, or misrepresentation in obtaining or
44 attempting to obtain a license or the renewal of a license.
- 45 (2) Practices or attempts to practice landscape construction or contracting by
46 fraudulent misrepresentation.
- 47 (3) Commits an act of gross malpractice or incompetence as determined by the
48 Board.
- 49 (4) Has been convicted of or pled guilty or no contest to a crime that indicates
50 that the person is unfit or incompetent to practice as a landscape contractor
51 or that indicates that the person has deceived or defrauded the public.

- 1 (5) Has been declared incompetent by a court of competent jurisdiction.
2 (6) Has willfully violated any provision in this Chapter or any rules adopted by
3 the Board.
4 (7) Uses or attempts to use the seal in a fraudulent or unauthorized manner.
5 (8) Fails to file the required surety bond or letter of credit or to keep the bond or
6 letter of credit in force.

7 (b) The Board may assess costs, including reasonable attorneys' fees and investigatory
8 costs, in a proceeding under this section against an applicant or licensee found to be in violation
9 of this Chapter.

10 **"§ 89D-23. Civil penalties.**

11 (a) In addition to taking any of the actions permitted under G.S. 89D-22, the Board may
12 assess a civil penalty not in excess of two thousand dollars (\$2,000) for each violation of any
13 section of this Chapter or the violation of any rules adopted by the Board. The clear proceeds of
14 any civil penalty assessed under this section shall be remitted to the Civil Penalty and
15 Forfeiture Fund in accordance with G.S. 115C-457.2.

16 (b) Before imposing and assessing a civil penalty and fixing the amount of the penalty,
17 the Board shall, as a part of its deliberations, take into consideration the following factors:

- 18 (1) The nature, gravity, and persistence of the particular violation.
19 (2) The appropriateness of the imposition of a civil penalty when considered
20 alone or in combination with other punishment.
21 (3) Whether the violation was willful and malicious.
22 (4) Any other factors that would tend to mitigate or aggravate the violations
23 found to exist.

24 **"§ 89D-24. Injunction to prevent violation; notification of complaints.**

25 (a) If the Board finds that a person who does not have a license issued under this
26 Chapter is engaging in the practice of landscape construction or contracting, the Board may
27 appear in its own name in superior court in actions for injunctive relief to prevent any person
28 from violating the provisions of this Chapter or the rules adopted by the Board.

29 (b) A licensed landscape contractor shall notify the Board of any written complaints
30 filed against the landscape contractor not resolved within 30 days from the date the complaint
31 was filed by registered mail to the Board."

32 **SECTION 3.31.(c)** Members serving on the North Carolina Landscape
33 Contractors' Registration Board on the effective date of this act shall continue to serve until
34 members of the North Carolina Landscape Contractors' Licensing Board, newly structured
35 under G.S. 89D-14(a), as enacted by Section 3.31(b) of this act, are appointed.

36 **SECTION 3.31.(d)** Once the term of one of the current public members appointed
37 by the Governor expires, the General Assembly, upon the recommendation of the Speaker of
38 the House of Representatives, shall appoint a licensed landscape contractor in the business of
39 landscape construction and contracting. Once the term of one of the current members appointed
40 by the Commissioner of Agriculture expires, the General Assembly, upon the recommendation
41 of the President Pro Tempore of the Senate, shall appoint a licensed landscape contractor in the
42 business of landscape construction and contracting. All records, staff, funds, and other items of
43 the North Carolina Landscape Contractors' Registration Board are transferred to and made the
44 property of the North Carolina Landscape Contractors' Licensing Board.

45 **SECTION 3.31.(e)** Any person who, on or before December 31, 2014, meets at
46 least one of the following criteria shall be issued a landscape contractor's license by the North
47 Carolina Landscape Contractors' Licensing Board, without the requirement of examination,
48 upon submission of a completed application and payment of the application fee on or before
49 August 1, 2015:

- 50 (1) Is registered as a landscape contractor.
51 (2) Is licensed as an irrigation contractor.

- 1 (3) Is certified as a turf grass professional.
 2 (4) Has three years of documented experience in the person's own business as a
 3 landscape contractor or three years of documented experience as an
 4 employee in a landscape contracting business and meets all other
 5 requirements and qualifications for licensure as a landscape contractor.
 6 Educational experience can be applied towards the three-year experience
 7 requirement as follows:
 8 a. One year of credit for a two-year degree in related educational
 9 training.
 10 b. Two years of credit for a four-year degree in related educational
 11 training.
 12 c. Up to two years of credit for education or business experience in
 13 general business management.

14 Landscape contractors currently registered under Chapter 89D of the General Statutes shall not
 15 be required to renew the registration for the 2015 calendar year to qualify for the landscape
 16 contractor's license, as enacted by Subsection 3.31(b) of this section.

17 **SECTION 3.31.(f)** This section becomes effective August 1, 2015.
 18

19 **TRANSFER SOLID WASTE RULE-MAKING AUTHORITY FROM COMMISSION**
 20 **FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT COMMISSION**

21 **SECTION 3.33.(a)** G.S. 130A-29 reads as rewritten:

22 "**§ 130A-29. Commission for Public Health – Creation, powers and duties.**

23 ...

24 (c) The Commission shall adopt rules:

- 25 (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
 26 (2) Establishing standards for approving sewage-treatment devices and holding
 27 tanks for marine toilets as provided in G.S. 75A-6(o).
 28 (3) Establishing specifications for sanitary privies for schools where
 29 water-carried sewage facilities are unavailable as provided in
 30 G.S. 115C-522.
 31 (4) Establishing requirements for the sanitation of local confinement facilities as
 32 provided in Part 2 of Article 10 of Chapter 153A of the General Statutes.
 33 (5) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1075, s. 1.
 34 (5a) Establishing eligibility standards for participation in Department
 35 reimbursement programs.
 36 ~~(6) Requiring proper treatment and disposal of sewage and other waste from~~
 37 ~~chemical and portable toilets.~~
 38 (7) Establishing statewide health outcome objectives and delivery standards.
 39 (8) Establishing permit requirements for the sanitation of premises, utensils,
 40 equipment, and procedures to be used by a person engaged in tattooing, as
 41 provided in Part 11 of Article 8 of this Chapter.
 42 (9) Implementing immunization requirements for adult care homes as provided
 43 in G.S. 131D-9 and for nursing homes as provided in G.S. 131E-113.
 44 (10) Pertaining to the biological agents registry in accordance with
 45 G.S. 130A-479.
 46 (11) For matters within its jurisdiction that allow for and regulate horizontal
 47 drilling and hydraulic fracturing for the purpose of oil and gas exploration
 48 and development.

49"

50 **SECTION 3.33.(b)** G.S. 130A-290 reads as rewritten:

51 "**§ 130A-290. Definitions.**

1 (a) Unless a different meaning is required by the context, the following definitions shall
 2 apply throughout this Article:

3 ...
 4 (3a) "Commission" means the Environmental Management Commission.

5 ...
 6 (35) "Solid waste" means any hazardous or nonhazardous garbage, refuse or
 7 sludge from a waste treatment plant, water supply treatment plant or air
 8 pollution control facility, domestic sewage and sludges generated by the
 9 treatment thereof in sanitary sewage collection, treatment and disposal
 10 systems, and other material that is either discarded or is being accumulated,
 11 stored or treated prior to being discarded, or has served its original intended
 12 use and is generally discarded, including solid, liquid, semisolid or contained
 13 gaseous material resulting from industrial, institutional, commercial and
 14 agricultural operations, and from community activities. The term does not
 15 include:

- 16 a. Fecal waste from fowls and animals other than humans.
- 17 b. Solid or dissolved material in:
 - 18 1. Domestic sewage and sludges generated by treatment thereof
 - 19 in sanitary sewage collection, treatment and disposal systems
 - 20 which are designed to discharge effluents to the surface
 - 21 waters.
 - 22 2. Irrigation return flows.
 - 23 3. Wastewater discharges and the sludges incidental to and
 - 24 generated by treatment which are point sources subject to
 - 25 permits granted under Section 402 of the Water Pollution
 - 26 Control Act, as amended (P.L. 92-500), and permits granted
 - 27 under G.S. 143-215.1 by the ~~Environmental Management~~
 28 ~~Commission~~Commission. However, any sludges that meet
 - 29 the criteria for hazardous waste under RCRA shall also be a
 - 30 solid waste for the purposes of this Article.

31"
 32 **SECTION 3.33.(c)** G.S. 130A-291.1 reads as rewritten:

33 **"§ 130A-291.1. Septage management program; permit fees.**

34 ...
 35 (d) Septage shall be treated and disposed only at a wastewater system that has been
 36 approved by the Department under rules adopted by the Commission ~~or by the Environmental~~
 37 ~~Management Commission~~ or at a site that is permitted by the Department under this section. A
 38 permit shall be issued only if the site satisfies all of the requirements of the rules adopted by the
 39 Commission.

40"
 41 **SECTION 3.33.(d)** G.S. 130A-294(a)(4) reads as rewritten:

42 **"§ 130A-294. Solid waste management program.**

43 (a) The Department is authorized and directed to engage in research, conduct
 44 investigations and surveys, make inspections and establish a statewide solid waste management
 45 program. In establishing a program, the Department shall have authority to:

- 46 ...
 47 (4) a. Develop a permit system governing the establishment and operation
 48 of solid waste management facilities. A landfill with a disposal area
 49 of 1/2 acre or less for the on-site disposal of land clearing and inert
 50 debris is exempt from the permit requirement of this section and shall
 51 be governed by G.S. 130A-301.1. Demolition debris from the

1 decommissioning of manufacturing buildings, including electric
 2 generating stations, that is disposed of on the same site as the
 3 decommissioned buildings, is exempt from the permit requirement of
 4 this section and rules adopted pursuant to this section and shall be
 5 governed by G.S. 130A-301.3. The Department shall not approve an
 6 application for a new permit, the renewal of a permit, or a substantial
 7 amendment to a permit for a sanitary landfill, excluding demolition
 8 landfills as defined in the rules of the Commission, except as
 9 provided in subdivisions (3) and (4) of subsection (b1) of this
 10 section. No permit shall be granted for a solid waste management
 11 facility having discharges that are point sources until the Department
 12 has referred the complete plans and specifications to the
 13 ~~Environmental Management~~ Commission and has received advice in
 14 writing that the plans and specifications are approved in accordance
 15 with the provisions of G.S. 143-215.1. In any case where the
 16 Department denies a permit for a solid waste management facility, it
 17 shall state in writing the reason for denial and shall also state its
 18 estimate of the changes in the applicant's proposed activities or plans
 19 that will be required for the applicant to obtain a permit.

20 b. Repealed by Session Laws 2007-550, s. 1(a), effective August 1,
 21 2007.

22 c. The Department shall deny an application for a permit for a solid
 23 waste management facility if the Department finds that:

- 24 1. Construction or operation of the proposed facility would be
 25 inconsistent with or violate rules adopted by the Commission.
- 26 2. Construction or operation of the proposed facility would
 27 result in a violation of water quality standards adopted by the
 28 ~~Environmental Management~~ Commission pursuant to
 29 G.S. 143-214.1 for waters, as defined in G.S. 143-213.
- 30 3. Construction or operation of the facility would result in
 31 significant damage to ecological systems, natural resources,
 32 cultural sites, recreation areas, or historic sites of more than
 33 local significance. These areas include, but are not limited to,
 34 national or State parks or forests; wilderness areas; historic
 35 sites; recreation areas; segments of the natural and scenic
 36 rivers system; wildlife refuges, preserves, and management
 37 areas; areas that provide habitat for threatened or endangered
 38 species; primary nursery areas and critical fisheries habitat
 39 designated by the Marine Fisheries Commission; and
 40 Outstanding Resource Waters designated by the
 41 ~~Environmental Management~~ Commission.

42"

43 **SECTION 3.33.(e)** G.S. 130A-300 reads as rewritten:

44 **"§ 130A-300. Effect on laws applicable to water pollution control.**

45 This Article shall not be considered as amending, repealing or in any manner abridging or
 46 interfering with those sections of the General Statutes of North Carolina relative to the control
 47 of water pollution as now administered by the ~~Environmental Management~~ Commission nor
 48 shall the provisions of this Article be construed as being applicable to or in any way affecting
 49 the authority of the ~~Environmental Management~~ Commission to control the discharges of
 50 wastes to the waters of the State as provided in Articles 21 and 21A, Chapter 143 of the
 51 General Statutes."

1 **SECTION 3.33.(f)** G.S. 130A-302 reads as rewritten:

2 "**§ 130A-302. Sludge deposits at sanitary landfills.**

3 Sludges generated by the treatment of wastewater discharges which are point sources
4 subject to permits granted under Section 402 of the Federal Water Pollution Act, as amended
5 (P.L. 92-500), or permits generated under G. S. 143-215.1 by the ~~Environmental Management~~
6 Commission shall not be deposited in or on a sanitary landfill permitted under this Article
7 unless in a compliance with the rules concerning solid waste adopted under this Article."

8 **SECTION 3.33.(g)** G.S. 130A-310.3 reads as rewritten:

9 "**§ 130A-310.3. Remedial action programs for inactive hazardous substance or waste**
10 **disposal sites.**

11 ...

12 (b) Where possible, the Secretary shall work cooperatively with any owner, operator,
13 responsible party, or any appropriate agency of the State or federal government to develop and
14 implement the inactive hazardous substance or waste disposal site remedial action program.
15 The Secretary shall not take action under this section to the extent that the ~~Environmental~~
16 ~~Management~~ Commission, the Commissioner of Agriculture, or the Pesticide Board has
17 assumed jurisdiction pursuant to Articles 21 or 21A of Chapter 143 of the General Statutes.

18 ...

19 (d) In any inactive hazardous substance or waste disposal site remedial action program
20 implemented hereunder, the Secretary shall ascertain the most nearly applicable cleanup
21 standard as would be applied under CERCLA/SARA, and may seek federal approval of any
22 such program to insure concurrent compliance with federal standards. State standards may
23 exceed and be more comprehensive than such federal standards. The Secretary shall assure
24 concurrent compliance with applicable standards set by the ~~Environmental Management~~
25 Commission.

26 "

27 **SECTION 3.33.(h)** G.S. 130A-310.4(g) reads as rewritten:

28 "(g) The Commission on ~~Health Services~~ [~~Commission for Public Health~~] shall adopt
29 rules prescribing the form and content of the notices required by this section. The proposed
30 remedial action plan shall include a summary of all alternatives considered in the development
31 of the plan. A record shall be maintained of all comment received by the Department regarding
32 the remedial action plan."

33 **SECTION 3.33.(i)** G.S. 130A-310.31(b)(5) reads as rewritten:

34 "(5) "Unrestricted use standards" when used in connection with "cleanup",
35 "remediated", or "remediation" means contaminant concentrations for each
36 environmental medium that are considered acceptable for all uses and that
37 comply with generally applicable standards, guidance, or established
38 methods governing the contaminants that are established by statute or
39 adopted, published, or implemented by the ~~Environmental Management~~
40 ~~Commission~~, the Commission, or the Department instead of the site-specific
41 contaminant levels established pursuant to this Part."

42 **SECTION 3.33.(j)** G.S. 130A-310.65 reads as rewritten:

43 "**§ 130A-310.65. Definitions.**

44 As used in this Part:

45 (1) "Background standard" means the naturally occurring concentration of a
46 substance in the absence of the release of a contaminant.

47 (2) "~~Commission~~" means the ~~Environmental Management Commission~~ created
48 pursuant to ~~G.S. 143B-282~~.

49 ...

50 (12) "Unrestricted use standards" means contaminant concentrations for each
51 environmental medium that are acceptable for all uses; that are protective of

1 public health, safety, and welfare and the environment; and that comply with
2 generally applicable standards, guidance, or methods established by statute
3 or adopted, published, or implemented by the ~~Commission, the Commission~~
4 ~~for Public Health, Commission~~ or the Department."

5 **SECTION 3.33.(k)** G.S. 113-391(a)f. reads as rewritten:

6 "f. Management of wastes produced in connection with oil and gas
7 exploration and development and use of horizontal drilling and
8 hydraulic fracturing treatments for that purpose. Such rules shall
9 address storage, transportation, and disposal of wastes that may
10 contain radioactive materials or wastes that may be toxic or have
11 other hazardous wastes' characteristics that are not otherwise
12 regulated as a hazardous waste by the federal Resource Conservation
13 and Recovery Act (RCRA), such as top-hole water, brines, drilling
14 fluids, additives, drilling muds, stimulation fluids, well servicing
15 fluids, oil, production fluids, and drill cuttings from the drilling,
16 alteration, production, plugging, or other activity associated with oil
17 and gas wells. Wastes generated in connection with oil and gas
18 exploration and development and use of horizontal drilling and
19 hydraulic fracturing treatments for that purpose that constitute
20 hazardous waste under RCRA shall be subject to rules adopted by the
21 Environmental Management Commission ~~for Public Health~~ to
22 implement RCRA requirements in the State."

23 **SECTION 3.33.(l)** G.S. 113-415 reads as rewritten:

24 **"§ 113-415. Conflicting laws.**

25 No provision of this Article shall be construed to repeal, amend, abridge or otherwise
26 ~~affect: (i) affect~~ the authority and ~~responsibility~~ responsibility (i) vested in the Environmental
27 Management Commission by Article 7 of Chapter 87 of the General Statutes, pertaining to the
28 location, construction, repair, operation and abandonment of ~~wells, or the authority and~~
29 ~~responsibility wells; (ii)~~ vested in the Environmental Management Commission related to the
30 control of water and air pollution as provided in Articles 21 and 21A of Chapter 143 of the
31 General Statutes; ~~or (ii) the authority or responsibility (iii)~~ vested in the Department and the
32 Environmental Management Commission ~~for Public Health~~ by Article 10 of Chapter 130A of
33 the General Statutes pertaining to public water-supply ~~requirements, requirements;~~
34 ~~authority and responsibility (iv)~~ vested in the Environmental Management Commission ~~for~~
35 ~~Public Health~~ related to the management of solid and hazardous waste as provided in Article 9
36 of Chapter 130A of the General Statutes."

37 **SECTION 3.33.(m)** The Revisor of Statutes shall make any conforming statutory
38 changes necessary to reflect the transfer of rule-making authority under Article 9 of Chapter
39 130A of the General Statutes from the Commission for Public Health to the Environmental
40 Management Commission.

41 **SECTION 3.33.(n)** The Codifier of Rules shall make any conforming rule changes
42 necessary to reflect the transfer of rule-making authority under Article 9 of Chapter 130A of
43 the General Statutes from the Commission for Public Health to the Environmental Management
44 Commission.

45
46 **TRANSFER DRINKING WATER RULE-MAKING AUTHORITY FROM**
47 **COMMISSION FOR PUBLIC HEALTH TO ENVIRONMENTAL MANAGEMENT**
48 **COMMISSION**

49 **SECTION 3.34.(a)** G.S. 130A-313 is amended by adding a new subdivision to
50 read:

51 "(2a) "Commission" means the Environmental Management Commission."

1 **SECTION 3.34.(b)** G.S. 87-97(i) reads as rewritten:
2 "**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

3 ...
4 (i) ~~Commission for Public Health~~Environmental Management Commission to Adopt
5 Drinking Water Testing Rules. – The ~~Commission for Public Health~~Environmental
6 Management Commission shall adopt rules governing the sampling and testing of well water
7 and the reporting of test results. The rules shall allow local health departments to designate
8 third parties to collect and test samples and report test results. The rules shall also provide for
9 corrective action and retesting where appropriate. The ~~Commission for Public~~
10 ~~Health~~Commission may by rule require testing for additional parameters, including volatile
11 organic compounds, if the Commission makes a specific finding that testing for the additional
12 parameters is necessary to protect public health. If the Commission finds that testing for certain
13 volatile organic compounds is necessary to protect public health and initiates rule making to
14 require testing for certain volatile organic compounds, the Commission shall consider all of the
15 following factors in the development of the rule: (i) known current and historic land uses
16 around well sites and associated contaminants; (ii) known contaminated sites within a given
17 radius of a well and any known data regarding dates of contamination, geology, and other
18 relevant factors; (iii) any GIS-based information on known contamination sources from
19 databases available to the Department of Environment and Natural Resources; and (iv) visual
20 on-site inspections of well sites. In addition, the rules shall require local health departments to
21 educate citizens for whom new private drinking water wells are constructed and for citizens
22 who contact local health departments regarding testing an existing well on all of the following:

- 23 (1) The scope of the testing required pursuant to this Article.
- 24 (2) Optional testing available pursuant to this Article.
- 25 (3) The limitations of both the required and optional testing.
- 26 (4) Minimum drinking water standards."

27 **SECTION 3.34.(c)** The Codifier of Rules shall make any conforming rule changes
28 necessary to reflect the transfer of rule-making authority under Article 10 of Chapter 130A of
29 the General Statutes from the Commission for Public Health to the Environmental Management
30 Commission.

31 32 **WELL CONTRACTOR LICENSING CHANGES**

33 **SECTION 3.35.(a)** G.S. 87-43.1 is amended by adding the following new
34 subdivision to read:

35 "**§ 87-43.1. Exceptions.**

36 The provisions of this Article shall not apply:

- 37 ...
38 (10) To the installation, construction, maintenance, or repair of electrical wiring,
39 devices, appliances, or equipment by a person certified as a well contractor
40 under Article 7A of this Chapter when running electrical wires from the well
41 pump to the pressure switch."

42 **SECTION 3.35.(b)** G.S. 87-98.6 reads as rewritten:
43 "**§ 87-98.6. Well contractor qualifications and examination.**

44 (a) The Commission, with the advice and assistance of the Secretary, shall establish
45 minimum requirements of education, experience, and knowledge for each type of certification
46 for well contractors and shall establish procedures for receiving applications for certification,
47 conducting examinations, and making investigations of applicants as may be necessary and
48 appropriate so that prompt and fair consideration will be given to each applicant.

49 (b) The Commission, with the advice and assistance of the Secretary, shall establish
50 minimum requirements of education, experience, and knowledge for each type of certification
51 for well contractors for the installation, construction, maintenance, and repair of electrical

1 wiring devices, appliances, and equipment related to the construction, operation, and repair of
2 wells. Requirements developed pursuant to this subsection shall apply only to the initial
3 certification of an applicant and shall not be required as part of continuing education or as a
4 condition of certification renewal."

5 **SECTION 3.35.(c)** This section is effective when it becomes law. The
6 requirements of subsection (b) of G.S. 87-98.6, as enacted by Section 3.35(b) of this section,
7 apply to applicants applying for certification on or after the date this section becomes effective.
8

9 **STANDARDIZE LOCAL WELL PROGRAMS**

10 **SECTION 3.36.(a)** G.S. 87-97 reads as rewritten:

11 "**§ 87-97. Permitting, inspection, and testing of private drinking water wells.**

12 (a) **Mandatory Local Well Programs.** – Each county, through the local health
13 department that serves the county, shall implement a private drinking water well permitting,
14 inspection, and testing program. Local health departments shall administer the program and
15 enforce the minimum well construction, permitting, inspection, repair, and testing requirements
16 set out in this Article and rules adopted pursuant to this Article. No person shall unduly delay
17 or refuse to permit a well that can be constructed or repaired and operated in compliance with
18 the requirements set out in this Article and rules adopted pursuant to this Article.

19 (a1) Use of Standard Forms. – Local well programs shall use the standard forms created
20 by the Department for all required submittals and shall not create their own forms unless the
21 local program submits a petition for rule making to the Environmental Management
22 Commission, and the Commission by rule finds that conditions or circumstances unique to the
23 area served by the local well program constitute a threat to public health that will be mitigated
24 by use of a local form different from the form used by the Department.

25 ...

26 (k) **Registry of Permits and Test Results.** – Each local health department shall maintain
27 a registry of all private drinking water wells for which a construction permit or repair permit is
28 ~~issued~~.issued that is searchable by address or addresses served by the well. The registry shall
29 specify the physical location of each private drinking water well and shall include the results of
30 all tests of water from each well. The local health department shall retain a record of the results
31 of all tests of water from a private drinking water well until the well is properly closed in
32 accordance with the requirements of this Article and rules adopted pursuant to this Article.

33"

34 **SECTION 3.36.(b)** Notwithstanding 15A NCAC 02C .0107(j)(2), neither the
35 Department of Environment and Natural Resources nor any local well program shall require
36 that well contractor identification plates include the well construction permit numbers. Local
37 well programs may install a plate with the well construction permit number or any other
38 information deemed relevant on a well at the expense of the local program.

39 **SECTION 3.36.(c)** The Environmental Management Commission shall adopt a
40 rule to amend 15A NCAC 02C .0107(j)(2) consistent with Section 3.36(b) of this section.

41 **SECTION 3.36.(d)** Section 3.36(b) of this section expires on the date that the rule
42 adopted pursuant to Section 3.36(c) of this section becomes effective.

43 **SECTION 3.36.(e)** If the well location marked on the map submitted with an
44 application to a local well program is also marked with a stake or similar marker on the
45 property, then the local well program may not require the contractor to be onsite during the
46 on-site predrill inspection, as long as the contractor is available by telephone to answer
47 questions.
48

49 **MILITARY LANDS PROTECTION ACT AND MILITARY AFFAIRS COMMISSION** 50 **AMENDMENTS**

1 **SECTION 3.37.(a)** Article 8B of Chapter 143 of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 143-135.29. Review of Military Lands Protection Act Proposals.**

4 The State Construction Office shall maintain, and make available to the public, accurate
5 maps of areas surrounding major military installations, including Military Trainings Routes and
6 Military Operating Areas, as defined in G.S. 143-151.71, that are subject to the provisions of
7 Article 9G of Chapter 143 of the General Statutes."

8 **SECTION 3.37.(b)** G. S. 143-151.71 reads as rewritten:

9 **"§ 143-151.71. Definitions.**

10 Within the meaning of this Article:

- 11 (1) "Area surrounding major military installations" is the area that extends five
12 miles beyond the boundary of a major military installation and may include
13 incorporated and unincorporated areas of counties and municipalities.
- 14 (2) ~~"Building Code Council" means the Council created pursuant to Article 9 of~~
15 ~~Chapter 143 of the General Statutes.~~
- 16 (3) "Commissioner" means the Commissioner of Insurance.
- 17 (4) "Construction" includes reconstruction, alteration, or expansion.
- 18 (5) "Major military installation" means Fort Bragg, Pope Army Airfield, Camp
19 Lejeune Marine Corps Air Base, New River Marine Corps Air Station,
20 Cherry Point Marine Corps Air Station, Military Ocean Terminal at Sunny
21 Point, the United States Coast Guard Air Station at Elizabeth City, Naval
22 Support Activity Northwest, Air Route Surveillance Radar (ARSR-4) at Fort
23 Fisher, and Seymour Johnson Air Force Base, in its own right and as the
24 responsible entity for the Dare County Bombing Range, and any facility
25 located within the State that is subject to the installations' oversight and
26 control.
- 27 (6) "Person" means any individual, partnership, firm, association, joint venture,
28 public or private corporation, trust, estate, commission, board, public or
29 private institution, utility, cooperative, interstate body, the State of North
30 Carolina and its agencies and political subdivisions, or other legal entity.
- 31 (6a) "State Construction Office" means the State Construction Office of the
32 Department of Administration.
- 33 (7) "Tall buildings or structures" means any building, structure, or unit within a
34 multiunit building with a vertical height of more than 200 feet measured
35 from the top of the foundation of the building, structure, or unit and the
36 uppermost point of the building, structure, or unit. "Tall buildings or
37 structures" do not include buildings and structures listed individually or as
38 contributing resources within a district listed in the National Register of
39 Historic Places."

40 **SECTION 3.37.(c)** G.S. 143-151.73 reads as rewritten:

41 **"§ 143-151.73. Certain buildings and structures prohibited without endorsement.**

42 (a) No county or city may authorize the construction of and no person may construct a
43 tall building or structure in any area surrounding a major military installation in this State,
44 unless the county or city is in receipt of either a letter of endorsement issued to the person by
45 the ~~Building Code Council~~State Construction Office pursuant to G.S. 143-151.75 or proof of
46 the ~~Council's~~State Construction Office's failure to act within the time allowed pursuant to
47 G.S. 143-151.75.

48 (b) No county or city may authorize the provision of the following utility services to
49 any building or structure constructed in violation of subsection (a) of this section: electricity,
50 telephone, gas, water, sewer, or septic system."

51 **SECTION 3.37.(d)** G.S. 143-151.75 reads as rewritten:

1 **"§ 143-151.75. Endorsement for proposed tall buildings or structures required.**

2 (a) No person shall undertake construction of a tall building or structure in any area
3 surrounding a major military installation in this State without either first obtaining the
4 endorsement from the ~~Building Code Council~~State Construction Office or proof of the
5 ~~Council's~~State Construction Office's failure to act within the time allowed.

6 (b) A person seeking endorsement for a proposed tall building or structure in any area
7 surrounding a major military installation in this State shall provide written notice of the intent
8 to seek endorsement to the base commander of the major military installation that is located
9 within five miles of the proposed tall building or structure and shall provide all of the following
10 to the ~~Building Code Council~~State Construction Office:

11 (1) Identification of the major military installation and the base commander of
12 the installation that is located within five miles of the proposed tall building
13 or structure.

14 (2) A copy of the written notice sent to the base commander of the installation
15 identified in subdivision (1) of this subsection that is located within five
16 miles of the proposed tall building or structure.

17 (3) A written "Determination of No Hazard to Air Navigation" issued by the
18 Federal Aviation Administration pursuant to Subpart D of Part 77 of Title 14
19 of the Code of Federal Regulations (January 1, 2012, Edition) for the
20 proposed tall building or structure.

21 (c) After receipt of the information provided by the applicant pursuant to subsection (b)
22 of this section, the ~~Building Code Council~~State Construction Office shall, in writing, request a
23 written statement concerning the proposed tall building or structure from the base commander
24 of the major military installation identified in subdivision (1) of subsection (b) of this section.
25 The ~~Building Code Council~~State Construction Office shall request that the following
26 information be included in the written statement from the base commander:

27 (1) A determination whether the location of the proposed tall building or
28 structure is within a protected area that surrounds the installation.

29 (2) A determination whether any activities of the installation may be adversely
30 affected by the proposed tall building or structure. A detailed description of
31 the potential adverse effects, including frequency disturbances and physical
32 obstructions, shall accompany the determination required by this
33 subdivision.

34 (d) The ~~Building Code Council~~State Construction Office shall not endorse a tall
35 building or structure if the Council finds any one or more of the following:

36 (1) The proposed tall building or structure would encroach upon or otherwise
37 interfere with the mission, training, or operations of any major military
38 installation in North Carolina and result in a detriment to continued military
39 presence in the State. In its evaluation, the ~~Building Code Council~~State
40 Construction Office may consider whether the proposed tall building or
41 structure would cause interference with air navigation routes, air traffic
42 control areas, military training routes, or radar based on the written
43 statement received from a base commander as provided in subsection (c) of
44 this section and written comments received by members of affected
45 communities. Provided, however, if the ~~Building Code Council~~State
46 Construction Office does not receive a written statement requested pursuant
47 to subsection (c) of this section within 45 days of issuance of the request to
48 the base commander, the ~~Building Code Council~~State Construction Office
49 shall deem the tall building or structure as endorsed by the base commander.

50 (2) The ~~Council~~State Construction Office is not in receipt of the written
51 "Determination of No Hazard to Air Navigation" issued to the person by the

1 Federal Aviation Administration required pursuant to subdivision (3) of
2 subsection (b) of this section.

3 (e) The ~~Building Code Council~~ State Construction Office shall make a final decision on
4 the request for endorsement of a tall building or structure within 90 days from the date on
5 which the ~~Council~~ State Construction Office requested the written statement from the base
6 commander of the major military installation identified in subdivision (1) of subsection (b) of
7 this section. If the ~~Council~~ State Construction Office determines that a request for a tall building
8 or structure fails to meet the requirements for endorsement under this section, the ~~Council~~ State
9 Construction Office shall deny the request. The ~~Council~~ State Construction Office shall notify
10 the person of the denial, and the notice shall include a written statement of the reasons for the
11 denial. If the ~~Council~~ State Construction Office fails to act within any time period set forth in
12 this section, the person may treat the failure to act as a decision to endorse the tall building or
13 structure.

14 (f) The ~~Building Code Council~~ State Construction Office may meet by telephone, video,
15 or Internet conference, so long as consistent with applicable law regarding public meetings, to
16 make a decision on a request for endorsement for a tall building or structure pursuant to
17 subsection (e) of this section."

18 **SECTION 3.37.(e)** G.S. 143-138(j2) is repealed.

19 **SECTION 3.37.(f)** G.S. 127C-1 is amended by adding a new subsection to read:

20 "(d) Meetings and Records. – Notwithstanding Article 33C of Chapter 143 of the
21 General Statutes and Chapter 132 of the General Statutes, the Commission may withhold
22 documents and discussions related to the federal government's process to determine closure or
23 realignment of military installations until a final decision has been made by the federal
24 government in that process."

25 26 **PART IV. STUDIES**

27 28 **HONEYBEE WORKING GROUP**

29 **SECTION 4.1.(a)** The General Assembly recognizes the importance of the State's
30 agriculture sector and heritage and the importance of honeybee pollination to this sector. In an
31 effort to proactively address the issue of Colony Collapse Disorder and its damaging effects on
32 honeybee populations, the Department of Agriculture and Consumer Services shall create the
33 Honeybee Improvement for Vital Ecology (HIVE) working group. The group shall consist of
34 nine members appointed as follows:

- 35 (1) The Commissioner of Agriculture, or the Commissioner's designee, serving
36 ex officio.
- 37 (2) A representative from the Plant Protection Section of the Department of
38 Agriculture and Consumer Services.
- 39 (3) A representative from the Department of Transportation.
- 40 (4) A representative from the Utilities Commission Public Staff.
- 41 (5) Two representatives from publicly owned utilities that operate within the
42 State.
- 43 (6) Two representatives from the biotechnology sector whose company is
44 actively involved in honeybee research.
- 45 (7) One researcher from North Carolina State University, who shall be an
46 entomologist or apiculturist.

47 Vacancies in the HIVE group shall be filled by the Department of Agriculture and
48 Consumer Services. A quorum of the group shall consist of five members.

49 The HIVE group may contract for professional, clerical, or consultant services.

50 **SECTION 4.1.(b)** Purpose. – The HIVE group shall create and issue a report
51 containing the following:

- 1 (1) A list of bee-friendly vegetation and planting requirements for such
2 vegetation. The list shall include a recommendation as to the appropriateness
3 of locating each bee-friendly plant with respect to:
4 a. Department of Transportation public road rights-of-way,
5 b. Rights-of-way held by publicly owned utilities.
- 6 (2) Whether planting requirements for bee-friendly vegetation within
7 rights-of-way for public utilities should be voluntary or required.
- 8 (3) A recommendation from the Department of Transportation as to whether
9 priority should be given to bee-friendly vegetation for landscaping projects
10 within Department-owned rights-of-way and rest areas. Any
11 recommendation of priority shall also include a percentage breakdown of
12 urban and rural areas to be targeted.
- 13 (4) A recommendation from the Utilities Commission Public Staff, publicly
14 owned utilities, or both as to dedications of rural easements for bee-friendly
15 vegetation, including a percentage breakdown of urban and rural areas to be
16 targeted.
- 17 (5) A recommendation from the Department of Agriculture and Consumer
18 Services as to whether a statewide bee-friendly vegetation planting program
19 would be beneficial to the State's agriculture industry, including any
20 estimated benefit. In doing so, the Department of Agriculture and Consumer
21 Services shall address the following:
22 a. The willingness of farms to plant bee-friendly vegetation in rural
23 areas;
24 b. The ability of the Department of Agriculture and Consumer Services
25 to provide support for a farm planting program from existing funds;
26 and
27 c. The ability of research stations or other properties to plant
28 bee-friendly vegetation.

29 **SECTION 4.1.(c)** Staff. – The Department of Agriculture and Consumer Services
30 shall assign professional and clerical staff to assist in the work of the HIVE group.

31 **SECTION 4.1.(d)** Report. – The HIVE group shall submit a final report to the
32 Environmental Review Commission by December 1, 2014. The report shall contain the
33 information required in this section and any findings, legislative proposals, cost/benefit
34 analyses, or additional recommendations for legislative action to proactively address Colony
35 Collapse Disorder or other honeybee-related issues that may threaten the economy, ecology,
36 and agricultural heritage of the State.

37 38 **SENATOR JEAN PRESTON MARINE SHELLFISH SANCTUARY**

39 **SECTION 4.2.(a)** It is the intent of the General Assembly to establish a marine
40 shellfish sanctuary in the Pamlico Sound to be named in honor of former Senator Jean Preston,
41 to be called the "Senator Jean Preston Marine Shellfish Sanctuary."

42 **SECTION 4.2.(b)** The Division of Marine Fisheries of the Department of
43 Environment and Natural Resources shall designate a contiguous area of approximately 10,000
44 acres within the Pamlico Sound as a recommendation to the Environmental Review
45 Commission for establishment of the "Senator Jean Preston Marine Shellfish Sanctuary" and
46 create a plan for managing the sanctuary that includes the following components:

- 47 (1) Location and delineation of the sanctuary. – The plan should include a
48 location for the sanctuary that minimizes the impact on commercial trawling.
49 In addition, the sanctuary should be gridded into areas leased to private
50 parties for restoration and harvest and areas operated and maintained by the
51 State for restoration that are not open for harvest. The leased and unleased

1 areas should be arranged in a pattern where leased squares are surrounded on
2 four sides by unleased squares.

- 3 (2) Administration. – The plan should include the prices to be charged for the
4 leased portions of the sanctuary, including an administration fee to be
5 retained by the Division to support the leasing and monitoring program. The
6 plan shall also provide that the balance of lease payments collected by the
7 Division be transferred to the General Fund with a recommendation that
8 some or all of the proceeds be used for the support of the State's special
9 education programs in memory of Senator Jean Preston.
- 10 (3) Funding. – The plan should include a request for appropriations sufficient to
11 provide funds for the construction of appropriate bottom habitat and shellfish
12 seeding and for Division staff necessary to conduct oyster restoration and
13 monitoring activities. The plan should provide that, whenever possible,
14 construction and shellfish seeding be carried out by contract with private
15 entities.
- 16 (4) Commercial fisherman relief. – To promote the diversification of
17 commercial fishing opportunities, the plan should include a program to
18 award free or discounted leases under this section to commercial fishermen
19 who (i) have held one or more commercial fishing licenses continually for a
20 period of 10 or more years and (ii) receive at least fifty (50%) of their
21 income from commercial fishing with those licenses.
- 22 (5) Recommendations. – The plan should include recommendations for statutory
23 or regulatory changes needed to expedite the expansion of shellfish
24 restoration and harvesting in order to improve water quality, restore
25 ecological habitats, and expand the coastal economy.

26 **SECTION 4.2.(c)** No later than December 1, 2014, and quarterly thereafter until
27 submission of a final plan to the Environmental Review Commission, the Department of
28 Environment and Natural Resources shall report to the Environmental Review Commission
29 regarding its implementation of this section and its recommended plan.
30

31 **DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO STUDY** 32 **INTERBASIN TRANSFERS**

33 **SECTION 4.3.(a)** The Department of Environment and Natural Resources shall
34 study the statutes and rules governing interbasin transfers and make recommendations as to
35 whether the statutes and rules should be amended. The study shall specifically examine all of
36 the following:

- 37 (1) Whether and to what extent temporary and emergency interbasin transfers,
38 including interbasin transfers to provide drought relief, should be subject to
39 different regulatory requirements than long-term interbasin transfers.
- 40 (2) Whether and to what extent interbasin transfers between river sub-basins
41 should be subject to different regulatory requirements than interbasin
42 transfers between major river basins.
- 43 (3) Whether there are types of interbasin transfers that should be exempted from
44 the interbasin certification or other regulatory requirements.

45 **SECTION 4.3.(b)** No later than November 1, 2014, the Department of
46 Environment and Natural Resources shall report its findings and recommendations to the
47 Environmental Review Commission.
48

49 **PROGRAM EVALUATION DIVISION TO STUDY WATER AND SEWER SYSTEMS**

50 **SECTION 4.4.(a)** The Joint Legislative Program Evaluation Oversight Committee
51 shall include in the 2014-2015 Work Plan for the Program Evaluation Division of the General

1 Assembly a study of the benefits that may result from the merger of public water systems and
2 wastewater collection and treatment works. The Program Evaluation Division shall specifically
3 include the following in the study:

- 4 (1) Consideration of whether the benefits that have resulted from the merger of
5 certain public water systems and certain wastewater collection and treatment
6 works can be replicated for other systems. In considering this issue, the
7 Program Evaluation Division shall investigate the performance of the
8 Charlotte-Mecklenburg Utility Department, the Cape Fear Public Utility
9 Authority, and Two Rivers Utilities.
- 10 (2) Whether the State can incentivize public water systems and wastewater
11 collection and treatment works that provide service that is affordable,
12 reliable, and in compliance with all applicable laws to purchase, to
13 interconnect with, or enter into joint management agreements with public
14 water systems and wastewater collection and treatment works that do not
15 provide service that is affordable, reliable, and in compliance with all
16 applicable laws.
- 17 (3) Whether the State can allow public water systems and wastewater collection
18 and treatment works that provide service that is affordable, reliable, and in
19 compliance with all applicable laws to apply for grant funding or other
20 assistance on the behalf of public water systems and wastewater collection
21 and treatment works that do not provide service that is affordable, reliable,
22 and in compliance with all applicable laws if the award of such funding is
23 contingent on purchase, interconnection, or a joint management agreement
24 between the systems.

25 **SECTION 4.4.(b)** The Program Evaluation Division shall submit its findings and
26 recommendations to the Joint Legislative Program Evaluation Oversight Committee and the
27 Environmental Review Commission at a date to be determined by the Joint Legislative
28 Program Evaluation Oversight Committee.

29
30 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

31 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or
32 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
33 the part declared to be unconstitutional or invalid.

34 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
35 law.