

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 374
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Proposed Conference Committee Substitute H374-PCCS10517-RI-11

Short Title: Regulatory Reform Act of 2018.

(Public)

Sponsors:

Referred to:

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH
3 CAROLINA.

4 The General Assembly of North Carolina enacts:

5
6 **ELECTRONIC DELIVERY OF DECISION DOCUMENTS IN CONTESTED CASES**

7 **SECTION 1.** G.S. 150B-23 reads as rewritten:

8 "**§ 150B-23. Commencement; assignment of administrative law judge; hearing required;**
9 **notice; intervention.**

10 ...

11 (f) Unless another statute or a federal statute or regulation sets a time limitation for the
12 filing of a petition in contested cases against a specified agency, the general limitation for the
13 filing of a petition in a contested case is 60 days. The time limitation, whether established by
14 another statute, federal statute, or federal regulation, or this section, shall commence when notice
15 is given of the agency decision to all persons aggrieved who are known to the agency by personal
16 ~~delivery-delivery, electronic delivery,~~ or by the placing of the notice in an official depository of
17 the United States Postal Service wrapped in a wrapper addressed to the person at the latest address
18 given by the person to the agency. The notice shall be in writing, and shall set forth the agency
19 action, and shall inform the persons of the right, the procedure, and the time limit to file a
20 contested case petition. When no informal settlement request has been received by the agency
21 prior to issuance of the notice, any subsequent informal settlement request shall not suspend the
22 time limitation for the filing of a petition for a contested case hearing.

23"

24
25 **ALLOW TEMPORARY FOOD ESTABLISHMENTS TO OPERATE FOR UP TO 30**
26 **DAYS AND OPERATE AT AGRITOURISM BUSINESSES**

27 **SECTION 2.** G.S. 130A-247 reads as rewritten:

28 "**§ 130A-247. Definitions.**

29 The following definitions shall apply throughout this Part:

30 ...

31 (8) "Temporary food establishment" means an establishment not otherwise
32 exempted from this part pursuant to G.S. 130A-250 that (i) prepares or serves
33 food, (ii) operates for a period of time not to exceed ~~21~~30 days in one location,



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1 and (iii) is affiliated with and endorsed by a transitory fair, carnival, circus,
2 festival, ~~or public exhibition~~ public exhibition, or agritourism business. For
3 purposes of this subdivision, "agritourism" means the same as in
4 G.S. 153A-340(b)(2a). Notwithstanding the time limit set out in this
5 subdivision, a local health department may, upon the request of a temporary
6 food establishment, grant a one-time, 15-day extension of the establishment's
7 permit if the establishment continues to meet all of the requirements of its
8 permit and applicable rules."
9

10 **CHANGE REQUIRED OFFICE LOCATION FOR THE NORTH CAROLINA BOARD**
11 **OF COSMETIC ART EXAMINERS FROM RALEIGH TO WAKE COUNTY**

12 **SECTION 3.** G.S. 88B-6(a) reads as rewritten:

13 "(a) The Board shall maintain its office in Raleigh, Wake County, North Carolina."
14

15 **AMEND LAW ON CONTRACTS WITH AUTOMATIC RENEWAL CLAUSES**

16 **SECTION 4.(a)** G.S. 75-41 reads as rewritten:

17 **"§ 75-41. Contracts with automatic renewal clauses.**

18 (a) Any person engaged in commerce that sells, leases, or offers to sell or lease, any
19 products or services to a consumer pursuant to a contract, where the contract automatically
20 renews unless the consumer cancels the contract, shall do all of the following:

- 21 (1) Disclose the automatic renewal clause clearly and conspicuously in the
22 contract or contract offer.
- 23 (2) Disclose clearly and conspicuously how to cancel the contract in the initial
24 contract, contract offer, or with delivery of products or services.
- 25 (3) For any automatic renewal exceeding 60 days, provide written notice to the
26 consumer by personal delivery, electronic mail, or first-class mail, at least 15
27 days but no earlier than 45 days before the date the contract is to be
28 automatically renewed, stating the date on which the contract is scheduled to
29 automatically renew and notifying the consumer that the contract will
30 automatically renew unless it is cancelled by the consumer prior to that date.
- 31 (4) If the terms of the contract will change upon the automatic renewal of the
32 contract, disclose the changing terms of the contract clearly and conspicuously
33 on the notification in at least 12 point type and in bold print.

34 (b) Repealed by Session Laws 2016-113, s. 16(a), effective July 26, 2016, and applicable
35 to contracts entered into on or after that date.

36 (c) A person that fails to comply with the requirements of this section is in violation of
37 this section unless the person demonstrates that all of the following are its routine business
38 practice:

- 39 (1) The person has established and implemented written procedures to comply
40 with this section and enforces compliance with the procedures.
- 41 (2) Any failure to comply with this section is the result of error.
- 42 (3) Where an error has caused the failure to comply with this section, the person
43 provides a full refund or credit for all amounts billed to or paid by the
44 consumer from the date of the renewal until the date of the termination of the
45 contract, or the date of the subsequent notice of renewal, whichever occurs
46 first.

47 (d) This section does not apply to insurers licensed under Chapter 58 of the General
48 Statutes, or to banks, trust companies, savings and loan associations, savings banks, or credit
49 unions licensed or organized under the laws of any state or the United States, or any foreign bank
50 maintaining a branch or agency licensed under the laws of the United States, or any subsidiary
51 or affiliate thereof, nor does this section apply to any entity subject to regulation by the Federal

1 Communications Commission under Title 47 of the United States Code or by the North Carolina
2 Utilities Commission under Chapter 62 of the General Statutes, or to any entity doing business
3 directly or through an affiliate pursuant to a franchise, license, certificate, or other authorization
4 issued by a political subdivision of the State or an agency thereof.

5 (d1) This section does not apply to real estate professionals licensed under Chapter 93A
6 of the General Statutes.

7 (e) A violation of this section renders the automatic renewal clause void and
8 unenforceable."

9 **SECTION 4.(b)** This section becomes effective October 1, 2018, and applies to
10 contracts entered into or renewed on or after that date.

11 12 **MOTORCYCLE FINANCING CHANGES**

13 **SECTION 5.(a)** G.S. 25A-34 reads as rewritten:

14 **"§ 25A-34. Balloon payments.**

15 With respect to a consumer credit sale, other than one pursuant to a revolving charge account,
16 no scheduled payment may be more than ten percent (10%) larger than the average of earlier
17 scheduled payments, ~~(except except that the final payment may be twenty-five percent (25%))~~
18 (25%) larger than the average of earlier scheduled payments. This ~~provision-section~~ does not
19 apply when the payment schedule is adjusted to the seasonal or irregular income of the buyer.
20 This section does not apply to the sale of a motorcycle as defined in G.S. 20-4.01(27) with a
21 purchase price of seven thousand five hundred dollars (\$7,500) or more."

22 **SECTION 5.(b)** This section becomes effective December 1, 2018, and applies to
23 contracts entered into on or after that date.

24 25 **CLARIFY REGISTRATION REQUIREMENTS FOR EMPLOYEES OF ALARM** 26 **SYSTEMS BUSINESSES**

27 **SECTION 6.** G.S. 74D-8 reads as rewritten:

28 **"§ 74D-8. Registration of persons employed.**

29 (a)(1) A licensee of an alarm systems business shall register with the Board within 30 days
30 after the employment begins, all of the following employees that are within the State, unless in
31 the discretion of the Director, the time period is extended for good cause:

32 a. Any employee that has access to confidential information detailing the
33 design, installation, or application of any location specific electronic
34 security system or that has access to any code, number, or program
35 that would allow the system to be modified, altered, or circumvented.

36 b. Any employee who installs or services an electronic security system
37 in a commercial business establishment or a personal residence.

38 Employees engaged only in sales or marketing that does not involve any of
39 the above are not required to be registered.

40 (1a) To register an employee, a licensee shall submit to the Board as to the
41 employee: set(s) of classifiable fingerprints on standard F.B.I. applicant cards;
42 recent color photograph(s) of acceptable quality for identification; and
43 statements of any criminal records as deemed appropriate by the Board.

44 (2) Except during the period allowed for registration in subdivision (a)(1) of this
45 section, no alarm systems business may employ any employee unless the
46 employee's registration has been approved by the Board as set forth in this
47 section.

48 (b) The Director shall be notified in writing of the termination of any employee registered
49 under this Chapter within 20 days after the termination.

50 (c) The Board shall issue a registration card to each employee of a licensee who is
51 registered under this Chapter. The registration card shall expire two years after its date of issuance

1 and shall be renewed before the expiration of the term of the registration. If a registered person
2 changes employment to another licensee, the registration card may remain valid; however,
3 persons changing employment must pay the fee authorized by G.S. 74D-7(e)(5).

4 (d) If all required documents, properly completed, have been submitted to the Board no
5 later than 20 days after an employee begins employment, the employer of each applicant for
6 registration shall give the applicant a copy of the complete application which the employee can
7 use until a registration card issued by the Board is received."
8

9 **MODIFY RENEWABLE PRECERTIFICATION FOR PERSONS TRANSPORTING** 10 **ESSENTIALS OR RESTORING UTILITIES DURING EMERGENCY** 11 **DECLARATIONS**

12 **SECTION 7.** G.S. 166A-19.70(c) reads as rewritten:

13 "(c) Certification System. – The Secretary shall develop a system pursuant to which a
14 person who transports essentials in commerce, or assists in ensuring their availability, and
15 persons who assist in the restoring of utility services can be certified as such. The certification
16 system shall allow for both ~~preemergency~~ pre-emergency declaration and ~~postemergency~~
17 post-emergency declaration certification ~~and may include an annually~~ with renewable
18 precertification. The Secretary shall only allow those who routinely transport or distribute
19 essentials or assist in the restoring of utility services to be certified. A certification of the
20 employer shall constitute a certification of the employer's employees. The Secretary shall create
21 an easily recognizable indicium of certification in order to assist local officials' efforts to
22 determine which persons have received certification by the system established under this
23 subsection."
24

25 **MITIGATION BONDING REFORM**

26 **SECTION 8.** The Division of Mitigation Services shall review and revise its bidding
27 and contracting procedures for procurement of mitigation services to include, at a minimum, the
28 following policies:

- 29 (1) Bonding or other financial surety required for the construction of a mitigation
30 project shall reflect only the minimum amount necessary to secure State funds
31 provided through a contract between the Division and a private mitigation
32 provider.
- 33 (2) Post-construction bonding periods and amounts shall reflect the minimum
34 length of time necessary to determine with a reasonable degree of certainty
35 project success and the reasonably determined level of financial risk to the
36 State from total or partial failure of the mitigation project.

37 The Division shall report to the Environmental Review Commission regarding the
38 review and revisions required by this section no later than December 1, 2018. The report shall
39 include an explanation of the methodology followed in setting bonding amounts and time lines
40 for procured mitigation projects and a description of any changes made to the Division's
41 procedures as a result of the review required by this section.
42

43 **CLARIFY IMPROVEMENT PERMIT AND CONSTRUCTION AUTHORIZATION** 44 **EXTENSIONS FOR WASTEWATER SYSTEMS**

45 **SECTION 9.** G.S. 130A-336(b1) reads as rewritten:

46 "(b1) An improvement permit or authorization for wastewater system construction issued
47 by a local health department from January 1, 2000, to January 1, 2015, which has not been acted
48 on and would have otherwise expired, shall remain valid until January 1, 2020, without penalty,
49 unless there are changes in the hydraulic flows or wastewater characteristics from the original
50 local health department evaluation. Permits are transferrable with ownership of the property.
51 Permits shall retain the site, soil evaluations, and construction conditions of the original permit.

1 Site activities begun or completed pursuant to requirements from the local health department
2 under the original permit, however, shall not be construed to be altered conditions and shall not
3 constitute a basis for refusal of the permit extension. The property owner may contract with a
4 person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist to
5 conduct a site verification to determine whether the conditions of the original permit are
6 unchanged. Written verification by the licensed soil scientist shall be accepted by the local health
7 department, used in lieu of verification by the local health department, and be attached to the
8 permit."

9
10 **STUDY MANDATORY CONNECTION AUTHORITY RELATING TO USE OF**
11 **ENGINEER OPTION PERMIT FOR WASTEWATER**

12 **SECTION 10.** Section 24.3(c) of S.L. 2017-57 reads as rewritten:

13 **"SECTION 24.3.(c)** The Legislative Research Commission shall study the issues raised in
14 this section and make recommendations to the General Assembly on:

- 15 (1) Fee and charge setting by units of local government in the operation of a water
16 or sewer system, including collection rates of those fees and charges.
- 17 (2) Proper accounting controls to ensure transparency in budgeting and
18 accounting for expenditures and interfund transfers of public enterprise
19 services by units of local government.
- 20 (3) Legislation that may be necessary to ensure proper funding of infrastructure
21 maintenance and improvements for the provision of water and sewer services,
22 including whether regionalization could facilitate financially healthy systems
23 with lower fees and charges to customers.
- 24 (4) Legislation that may be necessary to ensure that units of local government
25 monitor aging water and sewer infrastructure to ensure proper maintenance
26 and repair, including how this responsibility impacts the financial health of
27 the public enterprise.
- 28 (5) Legislation that may be necessary to grant or clarify mandatory connection
29 authority relating to use of the engineer option permit for wastewater and
30 relating to multiple public systems operating as one, however constituted, or
31 public-private partnerships."

32
33 **REVISE WASTEWATER PERMITTING REQUIREMENTS**

34 **SECTION 11.(a)** G.S. 130A-334(9a) reads as rewritten:

35 "(9a) "Repair" means the extension, alteration, replacement, or relocation of
36 existing components of a wastewater system. Replacement of a damaged
37 gravity distribution box by an on-site wastewater contractor certified under
38 Article 5 of Chapter 90A of the General Statutes shall not constitute a repair
39 to a permitted wastewater system."

40 **SECTION 11.(b)** G.S. 130A-334(15) reads as rewritten:

41 "(15) "Wastewater system" means a system of wastewater collection, treatment, and
42 disposal in single or multiple components, including a ground absorption
43 system, privy, septic tank system, public or community wastewater system,
44 wastewater reuse or recycle system, mechanical or biological wastewater
45 treatment system, any other similar system, and any chemical toilet used only
46 for human waste. ~~A wastewater system located on multiple adjoining lots or~~
47 ~~tracts of land under common ownership or control shall be considered a single~~
48 ~~system for purposes of permitting under this Article."~~

49 **SECTION 11.(c)** G.S. 130A-335 reads as rewritten:

50 **"§ 130A-335. Wastewater collection, treatment and disposal; rules.**

51 ...

(a1) Any proposed site for a residence, place of business, or a place of public assembly located in an area that is not served by an approved wastewater system for which a new wastewater system is proposed or repair is necessary for compliance may be evaluated for soil conditions and site features by a person licensed pursuant to Chapter 89F of the General Statutes as a licensed soil scientist. For purposes of this subsection, "site features" include topography and landscape position; soil characteristics (morphology); soil wetness; soil depth; restrictive horizons; available space; and other applicable factors that involve accepted public health principles. A person licensed pursuant to Chapter 89E of the General Statutes as a licensed geologist may evaluate the proposed site or repair area, as applicable, for geologic and hydrogeologic conditions.

(a2) Evaluations conducted by a licensed soil scientist or a licensed geologist pursuant to subsection (a1) of this section to produce design and construction features for a new proposed wastewater system or a proposed repair project for an existing wastewater system, including the addressing of any special hydrologic conditions that may be required under the applicable rules for an authorization to construct or for permitting, shall be approved by the applicable permitting authorities under G.S. 130A-336 and G.S. 130A-336.1, provided both of the following conditions are met:

(1) The evaluation of soil conditions, site features, or geologic and hydrogeologic conditions satisfies all requirements of this Article. The evaluation shall not cover areas outside the scope of the applicable license.

(2) The licensed soil scientist or licensed geologist conducting the evaluation maintains an errors and omissions liability insurance policy issued by an insurer licensed under Chapter 58 of the General Statutes in an amount commensurate with the risk.

...

(c) A wastewater system subject to approval under rules of the Commission shall be reviewed and approved under rules of a local board of health in the following circumstances:

(1) The local board of health, on its own motion, has requested the Department to review its proposed rules concerning wastewater systems; and

(2) The local board of health has adopted by reference the wastewater system rules adopted by the Commission, with any more stringent modifications or additions deemed necessary by the local board of health to protect the public ~~health;~~health. Local boards of health shall use historical experience to establish modifications or additions to rules established by the Commission; and

(3) The Department has found that the ~~rules—rules, including modifications or additions to the Commission's rules,~~ of the local board of health concerning wastewater collection, treatment and disposal systems are at least as stringent as rules adopted by the Commission and are sufficient and necessary to safeguard the public health.

...."

EXPAND DEFINITION OF ACCEPTED WASTEWATER DISPERSAL SYSTEM TO INCLUDE APPROVED TRENCH DISPERSAL SYSTEMS

SECTION 12. G.S. 130A-343 reads as rewritten:

"§ 130A-343. Approval of on-site subsurface wastewater systems.

(a) Definitions. – As used in this section:

(1) "Accepted wastewater dispersal system" means any subsurface wastewater dispersal system, other than a conventional wastewater system, that: (i) has been previously approved as an innovative wastewater dispersal system or other approved trench dispersal system by the Department; (ii) has been in

1 general use in this State as ~~an innovative~~ a wastewater dispersal system for
2 more than five years; and (iii) has been approved by the Commission for
3 general use or use in one or more specific applications. An accepted
4 wastewater dispersal system may be approved for use in applications for
5 which a conventional wastewater system is unsuitable. The Commission may
6 impose any design, operation, maintenance, monitoring, and management
7 requirements on the use of an accepted wastewater dispersal system that it
8 determines to be appropriate.

9 ...

10 (h) Accepted Wastewater Dispersal Systems. – A manufacturer of an innovative
11 wastewater dispersal system or other approved trench dispersal system that has been in general
12 use in this State for a minimum of five years may petition the Commission to have the system
13 designated as an accepted wastewater system as provided in this subsection. The manufacturer
14 shall provide the Commission with the data and findings of all prior evaluations of the
15 performance of the system in this State and other states referenced in the petition, including
16 disclosure of any conditions found to result in unacceptable structural integrity, treatment, or
17 hydraulic performance. In addition, the manufacturer shall provide the Commission with
18 information sufficient to enable the Commission to fully evaluate the performance of the system
19 in this State for at least the five-year period immediately preceding the petition. The Commission
20 shall designate a wastewater system as an accepted wastewater system only if it finds that there
21 is clear, convincing, and cogent evidence (i) to confirm the findings made by the Department at
22 the time the Department approved the system as ~~an innovative wastewater system~~ a wastewater
23 dispersal system and (ii) that the system performs in a manner that is equal or superior to a
24 conventional wastewater system under actual field conditions in this State. The Commission shall
25 specify the circumstances in which use of the system is appropriate and any conditions and
26 limitations related to the use of the system.

27"

29 CAP CERTAIN TITLE V AIR QUALITY PERMIT FEES

30 **SECTION 13.(a)** Definitions. – "Permit and Application Fees Rule" means 15A
31 NCAC 02Q .0203 (Permit and Application Fees) for purposes of this section and its
32 implementation.

33 **SECTION 13.(b)** Permit Fee Rule. – Until the effective date of the revised
34 permanent rule that the Environmental Management Commission is required to adopt pursuant
35 to subsection (d) of this section, the Commission and local air permitting programs shall
36 implement the Permit and Application Fees Rule as provided in subsection (c) of this section.

37 **SECTION 13.(c)** Implementation. – With respect to air curtain burner facilities with
38 emissions below the Title V major source threshold that are subject to the Title V permitting
39 program due to regulations in 40 C.F.R. Part 60 that require facilities to obtain a Title V permit
40 regardless of actual or potential emissions, the Permit and Application Fees Rule shall be
41 implemented to provide that the annual permit fee and permit application fee for a general permit
42 for these facilities shall be ten percent (10%) of the otherwise applicable fee.

43 **SECTION 13.(d)** Additional Rule-Making Authority. – The Commission shall adopt
44 a rule to amend the Permit and Application Fees Rule consistent with subsection (c) of this
45 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this
46 section shall be substantively identical to the provisions of subsection (c) of this section. Rules
47 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the
48 General Statutes. Rules adopted pursuant to this section shall become effective as provided in
49 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided in
50 G.S. 150B-21.3(b2).

1 **SECTION 13.(e)** Sunset. – This section expires when permanent rules adopted as
2 required by subsection (d) of this section become effective.

3
4 **ENVIRONMENTAL MANAGEMENT COMMISSION TO REVIEW LOCAL**
5 **GOVERNMENT IMPLEMENTATION OF CERTAIN WATER QUALITY LAWS**

6 **SECTION 14.** The Environmental Management Commission shall review the
7 delegated stormwater management programs implemented by local governments to determine (i)
8 which local governments are enforcing stormwater regulations that exceed the requirements of
9 State law, including requirements for inspection and maintenance of stormwater controls and
10 best management practices, and (ii) which local governments have taken enforcement actions
11 since August 1, 2015, based on requirements in Total Maximum Daily Load (TMDL)
12 calculations or National Pollutant Discharge Elimination System (NPDES) permits that exceed
13 the requirements of State law. The Commission shall report its findings to the Environmental
14 Review Commission no later than January 1, 2019.

15
16 **AUTHORIZE REPLACEMENT OF CERTAIN TEMPORARY EROSION CONTROL**
17 **STRUCTURES**

18 **SECTION 15.** G.S. 113A-115.1 reads as rewritten:

19 **"§ 113A-115.1. Limitations on erosion control structures.**

20 (a) As used in this section:

21 (1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty,
22 revetment, seawall, or any similar structure.

23 (1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that
24 border estuarine waters as defined in G.S. 113A-113(b)(2).

25 (2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and
26 frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands
27 adjacent to an ocean inlet but does not include that portion of any inlet and
28 lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

29 (3) "Terminal groin" means one or more structures constructed at the terminus of
30 an island or on the side of an inlet, with a main stem generally perpendicular
31 to the beach shoreline, that is primarily intended to protect the terminus of the
32 island from shoreline erosion and inlet migration. A "terminal groin" shall be
33 pre-filled with beach quality sand and allow sand moving in the littoral zone
34 to flow past the structure. A "terminal groin" may include other design
35 features, such as a number of smaller supporting structures, that are consistent
36 with sound engineering practices and as recommended by a professional
37 engineer licensed to practice pursuant to Chapter 89C of the General Statutes.
38 A "terminal groin" is not a jetty.

39 (b) No person shall construct a permanent erosion control structure in an ocean shoreline.
40 The Commission shall not permit the construction of a temporary erosion control structure that
41 consists of anything other than sandbags in an ocean shoreline. This subsection shall not apply
42 to any of the following:

43 (1) Any permanent erosion control structure that is approved pursuant to an
44 exception set out in a rule adopted by the Commission prior to July 1, 2003.

45 (2) Any permanent erosion control structure that was originally constructed prior
46 to July 1, 1974, and that has since been in continuous use to protect an inlet
47 that is maintained for navigation.

48 (3) Any terminal groin permitted pursuant to this section.

49 (b1) This section shall not be construed to limit the authority of the Commission to adopt
50 rules to designate or protect areas of environmental concern, to govern the use of sandbags, or to
51 govern the use of erosion control structures in estuarine shorelines.

1 (c) The Commission may renew a permit for ~~an erosion control structure issued a~~
2 permanent erosion control structure originally permitted pursuant to a variance granted by the
3 Commission prior to ~~July 1, 1995. The Commission may authorize the replacement of a~~
4 permanent erosion control structure that was permitted by the Commission pursuant to a variance
5 granted by the Commission prior to July 1, 1995, if the Commission finds that: (i) the structure
6 will not be enlarged beyond the dimensions set out in the original permit; (ii) there is no practical
7 alternative to replacing the structure that will provide the same or similar benefits; and (iii) the
8 replacement structure will comply with all applicable laws and with all rules, other than the rule
9 or rules with respect to which the Commission granted the variance, that are in effect at the time
10 the structure is replaced.

11 (c1) The Commission may authorize the repair or replacement of a temporary erosion
12 control structure that was originally permitted prior to July 1, 1995, if the Commission finds that
13 (i) the structure is located adjacent to an intertidal marine rock outcropping designated by the
14 State as a Natural Heritage Area pursuant to Part 42 of Article 2 of Chapter 143B of the General
15 Statutes and (ii) the replacement structure will comply with all applicable laws and with all rules,
16 other than the rule or rules with respect to which the Commission granted the variance, that are
17 in effect at the time the structure is replaced.

18"

19 20 **COASTAL STORMWATER PROGRAM VARIANCES**

21 **SECTION 16.(a)** Notwithstanding S.L. 2008-211 and rules adopted to implement
22 the act, any subdivision meeting all of the following requirements shall be deemed to be in
23 compliance with the impervious surface limitations of the act and its implementing rules:

- 24 (1) The subdivision's original declaration of covenants was recorded at least 20
25 years prior to the effective date of this act.
26 (2) The original developer of the subdivision transferred the stormwater permit to
27 the homeowners association for the subdivision and, at the time of the transfer,
28 the homeowners association had no notice from the original developer or any
29 regulatory agency that the subdivision was not in compliance with the
30 impervious surface limitations.

31 **SECTION 16.(b)** This section applies only to impervious surface built prior to
32 January 1, 2017. Any impervious surface built on or after January 1, 2017, shall be subject to
33 S.L. 2008-211 and its implementing rules.

34 **SECTION 16.(c)** Notwithstanding S.L. 2008-211 and rules adopted to implement
35 the act, a regional water facility shall not be required to increase the size of its wet detention
36 ponds or decrease the amount of development or impervious surface for which it has been
37 permitted based on an incorrect calculation in its stormwater management permit. This section
38 shall not apply to a regional water facility that intentionally provided inaccurate information upon
39 which the incorrect calculation is based.

40 **SECTION 16.(d)** This section is effective when it becomes law and applies to
41 permits issued before and after that date.

42 43 **ALLOW AMERICAN EELS TO BE IMPORTED FROM MARYLAND FOR** 44 **AQUACULTURE PURPOSES**

45 **SECTION 17.** Section 3.1(c) of S.L. 2017-190 reads as rewritten:

46 "SECTION 3.1.(c) Implementation. – Use of American eels imported from ~~Virginia~~
47 Maryland, Virginia, or South Carolina in an aquaculture operation is exempt from the permitting
48 requirements of the Importation of Marine and Estuarine Organisms Rule."

49 50 **ABOVEGROUND TANKS INSTITUTIONAL CONTROLS CLARIFICATION**

51 **SECTION 18.(a)** G.S. 143B-279.9 reads as rewritten:

1 "§ 143B-279.9. Land-use restrictions may be imposed to reduce danger to public health at
2 contaminated sites.

3 ...

4 ~~Except with respect to land contaminated from a discharge or release of petroleum from an~~
5 ~~underground storage tank, the imposition of restrictions on the current or future use of real~~
6 ~~property on~~ With respect to sites contaminated by the discharge or release of petroleum from an
7 aboveground storage tank, or another petroleum source, from which contamination has migrated
8 to off-site properties, as that term is defined under G.S. 130A-310.65(3a), the imposition of
9 restrictions on the current or future use of real property on such a site shall only be allowed as
10 provided in if the Department has determined that the requirements of G.S. 143-215.104AA or
11 G.S. 130A-310.73A, as applicable-applicable, have been satisfied for the site.

12"

13 **SECTION 18.(b)** G.S. 143B-279.11 reads as rewritten:

14 "**§ 143B-279.11. Recordation of residual petroleum from underground or aboveground**
15 **storage tanks or other sources.**

16 ...

17 (h) ~~Except with respect to land contaminated from a discharge or release of petroleum~~
18 ~~from an underground storage tank, the provisions of this section shall only apply~~ With respect to
19 sites contaminated by the discharge or release of petroleum from an aboveground storage tank,
20 or another petroleum source, from which contamination has migrated to off-site properties, as
21 that term is defined under G.S. 130A-310.65(3a), in compliance with the provisions of this
22 section shall only apply if the Department has determined that the requirements of
23 G.S. 143-215.104AA or G.S. 130A-310.73A, as applicable-applicable, have been satisfied for
24 the site."

25 **SECTION 18.(c)** This section becomes effective retroactively to October 4, 2017.

26
27 **MODIFY OTHER REQUIREMENTS FOR UNDERGROUND STORAGE TANKS**
28 **(USTS)**

29 **SECTION 19.(a)** Definitions. – "General Requirements Applicable to Performance
30 Standards for UST System or UST System Component Installation or Replacement Rule" means
31 15A NCAC 2N .0901 (General Requirements) for purposes of this section and its
32 implementation.

33 **SECTION 19.(b)** General Requirements Applicable to Performance Standards for
34 UST System or UST System Component Installation or Replacement Rule. – Until the effective
35 date of the revised permanent rule that the Environmental Management Commission is required
36 to adopt pursuant to subsection (d) of this section, the Commission shall implement the General
37 Requirements Applicable to Performance Standards for UST System or UST System Component
38 Installation or Replacement Rule, as provided in subsection (c) of this section.

39 **SECTION 19.(c)** Implementation. – Notwithstanding subsection (n) of the General
40 Requirements Applicable to Performance Standards for UST System or UST System Component
41 Installation or Replacement Rule, the Commission shall not require overfill prevention
42 equipment to be checked annually for operability, proper operating condition and proper
43 calibration in accordance with the manufacturer's written guidelines, but shall instead require
44 such equipment to be checked for these purposes once every three years as provided for under
45 federal law.

46 **SECTION 19.(d)** Additional Rule-Making Authority. – The Commission shall adopt
47 a rule to amend the General Requirements Applicable to Performance Standards for UST System
48 or UST System Component Installation or Replacement Rule consistent with subsection (c) of
49 this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to
50 this section shall be substantively identical to the provisions of subsection (c) of this section.
51 Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of

1 the General Statutes. Rules adopted pursuant to this section shall become effective as provided
2 in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
3 G.S. 150B-21.3(b2).

4 **SECTION 19.(e)** Sunset. – This section expires when permanent rules adopted as
5 required by subsection (d) of this section become effective.

6 **SECTION 19.1.(a)** Definitions. – For purposes of this section and its
7 implementation, "UST Rules" means Subchapter 2N (Underground Storage Tanks) of 15A
8 NCAC.

9 **SECTION 19.1.(b)** UST Rules. – Until the effective date of the revised permanent
10 rule that the Environmental Management Commission is required to adopt pursuant to subsection
11 (d) of this section, the Commission shall implement the UST Rules, as provided in subsection (c)
12 of this section.

13 **SECTION 19.1.(c)** Implementation. – Notwithstanding any prohibition under the
14 UST Rules, or guidance adopted by the Department of Environmental Quality thereunder, the
15 Department shall allow owners or operators of USTs to use all test methods and testing
16 equipment that are approved by the United States Environmental Protection Agency, including
17 the use of a Testable Drop Tube, for required testing of UST equipment.

18 **SECTION 19.1.(d)** Additional Rule-Making Authority. – The Commission shall
19 adopt a rule to amend the UST Rules consistent with subsection (c) of this section.
20 Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this section
21 shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted
22 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General
23 Statutes. Rules adopted pursuant to this section shall become effective as provided in
24 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by
25 G.S. 150B-21.3(b2).

26 **SECTION 19.1.(e)** Sunset. – This section expires when permanent rules adopted as
27 required by subsection (d) of this section become effective.

28 29 **EXPAND EXEMPTIONS FOR CERTAIN LOCAL GOVERNMENTS' AUTHORITY TO** 30 **ENACT FLOW CONTROL**

31 **SECTION 20.(a)** G.S. 130A-291(c) reads as rewritten:

32 "(c) Except as provided in subsections (d) and (e) of this section, a unit of local
33 government may, by ordinance, franchise, business license, contract, or otherwise, require that
34 all solid waste generated within the geographic area and placed in the waste stream for disposal
35 be delivered to the permitted solid waste management facility or facilities serving the geographic
36 area only under one of the following conditions:

- 37 (1) If the unit of local government has debt associated with solid waste
38 management facilities and equipment outstanding on September 1, 2017, the
39 unit of local government may adopt and enforce such an ordinance until the
40 date that such debt has matured.
- 41 (2) If the unit of local government incurs debt after September 1, 2017, and the
42 issuance of the debt will be conditioned upon the unit of local government
43 requiring that all waste collected within the county be disposed of within the
44 landfill, for expansion of a landfill or construction of a new landfill after all
45 necessary approvals for issuance of the debt have been obtained from the
46 Local Government Commission in compliance with Chapter 159 of the
47 General Statutes, including the demonstration of need and cost required by
48 G.S. 159-211, the unit of local government may adopt and enforce such an
49 ordinance until the date the debt associated with expansion of the landfill, or
50 construction of the new landfill, has matured.

1 (3) If the unit of local government is a party to an exclusive franchise agreement
 2 with a private entity governing the management or disposal of waste within
 3 the jurisdiction in effect on September 1, 2017, the unit of local government
 4 may adopt and enforce such an ordinance until the date that such franchise has
 5 expired.

6 (4) If the unit of local government purchased or otherwise acquired title to
 7 property between January 1, 2006, and September 1, 2017, with the specific
 8 intent of adding the property to an existing landfill for the disposal of
 9 municipal solid waste, which landfill (i) is contiguous to the property
 10 acquired; (ii) had been issued an operating permit on or before September 1,
 11 2017; and (iii) received less than 55,000 tons of waste in fiscal year
 12 2016-2017."

13 **SECTION 20.(b)** This section expires on June 30, 2019.

15 CLARIFY LANDFILL LIFE-OF-SITE/FRANCHISE REQUIREMENTS

16 **SECTION 21.(a)** G.S. 130A-294(a4) reads as rewritten:

17 "§ 130A-294. Solid waste management program.

18 ...

19 (a4) In order to preserve long-term disposal capacity, a life-of-site permit issued for a
 20 sanitary landfill shall survive the expiration of a local government approval or
 21 ~~franchise.~~franchise, and the local government shall allow the sanitary landfill to continue to
 22 operate until the term of the landfill's life-of-site permit expires provided that the owner or
 23 operator has complied with the terms of the local government approval or franchise agreement,
 24 and remains in compliance with those terms after expiration of the approval or agreement until
 25 the life-of-site permit has expired. In order to preserve any economic benefits included in the
 26 franchise, the County may extend the franchise under the same terms and conditions for the term
 27 of the life-of-site permit. The extension of the franchise hereby shall not trigger the requirements
 28 for a new permit, a major permit modification, or a substantial amendment to the permit. This
 29 subsection only applies to valid and operative franchise agreements in effect on October 1, 2015."

30 **SECTION 21.(b)** G.S. 160A-319(a) reads as rewritten:

31 "§ 160A-319. Utility franchises.

32 (a) A city shall have authority to grant upon reasonable terms franchises for a telephone
 33 system and any of the enterprises listed in G.S. 160A-311, except a cable television system. A
 34 franchise granted by a city authorizes the operation of the franchised activity within the city. No
 35 franchise shall be granted for a period of more than 60 years, ~~including a franchise granted to a~~
 36 ~~sanitary landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1); provided,~~
 37 ~~however, that a~~ years. A franchise granted for a sanitary landfill shall be subject to all
 38 requirements pertaining thereto under G.S. 130A-294. A franchise for solid waste collection or
 39 disposal systems and facilities, other than sanitary landfills, shall not be granted for a period of
 40 more than 30 years. Except as otherwise provided by law, when a city operates an enterprise, or
 41 upon granting a franchise, a city may by ordinance make it unlawful to operate an enterprise
 42 without a franchise.

43"

44 **SECTION 21.(c)** G.S. 153A-136(a) reads as rewritten:

45 "§ 153A-136. Regulation of solid wastes.

46 (a) A county may by ordinance regulate the storage, collection, transportation, use,
 47 disposal, and other disposition of solid wastes. Such an ordinance may:

48 ...

49 (3) Grant a franchise to one or more persons for the exclusive right to
 50 commercially collect or dispose of solid wastes within all or a defined portion
 51 of the county and prohibit any other person from commercially collecting or

1 disposing of solid wastes in that area. The board of commissioners may set
2 the terms of any franchise; provided, however, no franchise shall be granted
3 for a period of more than 30 years, except for a franchise granted to a sanitary
4 landfill for the life-of-site of the landfill pursuant to G.S. 130A-294(b1),
5 which may not exceed 60 years. A franchise granted for a sanitary landfill
6 shall be subject to all requirements pertaining thereto under G.S. 130A-294.
7 No franchise by its terms may impair the authority of the board of
8 commissioners to regulate fees as authorized by this section.

9"

10
11 **AMEND RECOVERABLE COSTS IN FUEL CLAUSE RIDER FOR ELECTRIC**
12 **PUBLIC UTILITIES THAT HAVE FEWER THAN 150,000 NORTH CAROLINA**
13 **RETAIL JURISDICTIONAL CUSTOMERS TO INCLUDE THE COST OF PURPA QF**
14 **PURCHASED POWER AND SUBJECT THEM TO THE CURRENT 1% ANNUAL CAP**
15 **ON COST INCREASES**

16 **SECTION 22.** G.S. 62-133.2 reads as rewritten:

17 **"§ 62-133.2. Fuel and fuel-related charge adjustments for electric utilities.**

18 (a) The Commission shall permit an electric public utility that generates electric power
19 by fossil fuel or nuclear fuel to charge an increment or decrement as a rider to its rates for changes
20 in the cost of fuel and fuel-related costs used in providing its North Carolina customers with
21 electricity from the cost of fuel and fuel-related costs established in the electric public utility's
22 previous general rate case on the basis of cost per kilowatt hour.

23 (a1) As used in this section, "cost of fuel and fuel-related costs" means all of the following:

- 24 (1) The cost of fuel burned.
- 25 (2) The cost of fuel transportation.
- 26 (3) The cost of ammonia, lime, limestone, urea, dibasic acid, sorbents, and
27 catalysts consumed in reducing or treating emissions.
- 28 (4) The total delivered noncapacity related costs, including all related
29 transmission charges, of all purchases of electric power by the electric public
30 utility, that are subject to economic dispatch or economic curtailment.
- 31 (5) The capacity costs associated with all purchases of electric power from
32 qualifying cogeneration facilities and qualifying small power production
33 facilities, as defined in 16 U.S.C. § 796, that are subject to economic dispatch
34 by the electric public utility.
- 35 (6) Except for those costs recovered pursuant to G.S. 62-133.8(h), the total
36 delivered costs of all purchases of power from renewable energy facilities and
37 new renewable energy facilities pursuant to G.S. 62-133.8 or to comply with
38 any federal mandate that is similar to the requirements of subsections (b), (c),
39 (d), (e), and (f) of G.S. 62-133.8.
- 40 (7) The fuel cost component of other purchased power.
- 41 (8) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses
42 resulting from any sales by the electric public utility of fuel and other
43 fuel-related costs components.
- 44 (9) Cost of fuel and fuel-related costs shall be adjusted for any net gains or losses
45 resulting from any sales by the electric public utility of by-products produced
46 in the generation process to the extent the costs of the inputs leading to that
47 by-product are costs of fuel or fuel-related costs.
- 48 (10) The total delivered costs, including capacity and noncapacity costs, associated
49 with all purchases of electric power from qualifying cogeneration facilities
50 and qualifying small power production facilities, as defined in 16 U.S.C. §
51 796, that are not subject to economic dispatch or economic curtailment by the

1 electric public utility and not otherwise recovered under subdivision (6) of this
2 subsection.

3 (11) All nonadministrative costs related to the renewable energy procurement
4 pursuant to G.S. 62-159.2 not recovered from the program participants.

5 ...

6 (a3) Notwithstanding subsections (a1) and (a2) of this section, for an electric public utility
7 that has fewer than 150,000 North Carolina retail jurisdictional customers as of December 31,
8 2006, the costs identified in subdivisions (1), (2), (6), ~~and (7)(7)~~, and (10) of subsection (a1) of
9 this section and the fuel cost component, as may be modified by the Commission, of electric
10 power purchases identified in subdivision (4) of subsection (a1) of this section shall be recovered
11 through the increment or decrement rider approved by the Commission pursuant to this section.
12 For the costs identified in ~~subdivision~~ subdivisions (6) and (10) of subsection (a1) of this section
13 that are incurred on or after January 1, 2008, the annual increase in the amount of these costs
14 shall not exceed one percent (1%) of the electric public utility's total North Carolina retail
15 jurisdictional gross revenues for the preceding calendar year. These costs described in
16 ~~subdivision~~ subdivisions (6) and (10) of subsection (a1) of this section shall be recoverable from
17 each class of customers as a separate component of the rider. For the costs described in
18 ~~subdivision~~ subdivisions (6) and (10) of subsection (a1) of this section, the specific component
19 for each class of customers shall be determined by allocating these costs among customer classes
20 based on the electric public utility's North Carolina peak demand for the prior year, as determined
21 by the Commission, until the Commission determines how these costs shall be allocated in a
22 general rate case for the electric public utility commenced on or after January 1, 2008.

23"

24
25 **AMEND PROCESS FOR VACANCY APPOINTMENTS TO THE UTILITIES**
26 **COMMISSION AND THE INDUSTRIAL COMMISSION**

27 **SECTION 23.(a)** G.S. 62-10(g) reads as rewritten:

28 "(g) If a vacancy arises or exists pursuant to either subsection (a) or (c) or (f) of this section
29 when the General Assembly is not in session, and the appointment is deemed urgent by the
30 Governor, the commissioner may be appointed and serve on an interim basis pending
31 confirmation by the General Assembly; provided, however, no person may be
32 appointed to serve on an interim basis pending confirmation by the General Assembly if the
33 person was subject to but not confirmed by the General Assembly within the preceding four
34 years. The limitation on appointment contained in this subsection includes, among other things,
35 unfavorable action on a joint resolution for confirmation, such as the resolution failing on any
36 reading in either chamber of the General Assembly, and failure to ratify a joint resolution for
37 confirmation prior to adjournment of the then current session of the General Assembly."

38 **SECTION 23.(b)** G.S. 97-77(a1) reads as rewritten:

39 "(a1) Appointments of commissioners are subject to confirmation by the General Assembly
40 by joint resolution. The names of commissioners to be appointed by the Governor shall be
41 submitted by the Governor to the General Assembly for confirmation by the General Assembly
42 on or before March 1 of the year of expiration of the term. If the Governor fails to timely submit
43 nominations, the General Assembly shall appoint to fill the succeeding term upon the joint
44 recommendation of the President Pro Tempore of the Senate and the Speaker of the House of
45 Representatives in accordance with G.S. 120-121 not inconsistent with this section.

46 In case of death, incapacity, resignation, or any other vacancy in the office of any
47 commissioner prior to the expiration of the term of office, a nomination to fill the vacancy for
48 the remainder of the unexpired term shall be submitted by the Governor within four weeks after
49 the vacancy arises to the General Assembly for confirmation by the General Assembly. If the
50 Governor fails to timely nominate a person to fill the vacancy, the General Assembly shall
51 appoint a person to fill the remainder of the unexpired term upon the joint recommendation of

1 the President Pro Tempore of the Senate and the Speaker of the House of Representatives in
 2 accordance with G.S. 120-121 not inconsistent with this section. If a vacancy arises or exists
 3 pursuant to this subsection when the General Assembly is not in session, and the appointment is
 4 deemed urgent by the Governor, the commissioner may be appointed and serve on an interim
 5 basis pending confirmation by the General Assembly; provided, however, no person
 6 may be appointed to serve on an interim basis pending confirmation by the General Assembly if
 7 the person was subject to but not confirmed by the General Assembly within the preceding four
 8 years. The limitation on appointment contained in this subsection includes, among other things,
 9 unfavorable action on a joint resolution for confirmation, such as the resolution failing on any
 10 reading in either chamber of the General Assembly, and failure to ratify a joint resolution for
 11 confirmation prior to adjournment of the then current session of the General Assembly. For the
 12 purpose of this subsection, the General Assembly is not in session only (i) prior to convening of
 13 the Regular Session, (ii) during any adjournment of the Regular Session for more than 10 days,
 14 and (iii) after sine die adjournment of the Regular Session.

15 No person while in office as a commissioner may be nominated or appointed on an interim
 16 basis to fill the remainder of an unexpired term, or to a full term that commences prior to the
 17 expiration of the term that the commissioner is serving."

18 **SECTION 23.(c)** This section is effective when it becomes law and applies to
 19 appointments made on or after that date.

20
 21 **ADJUST NUMBER OF ASSISTANT DISTRICT ATTORNEYS**

22 **SECTION 24.(a)** Section 18B.6 of S.L. 2018-5 reads as rewritten:

23 "**SECTION 18B.6.** Effective January 1, 2019, ~~G.S. 7A-41(a1)~~ G.S. 7A-60(a1) reads as
 24 rewritten:

25"

26 **SECTION 24.(b)** Effective January 1, 2019, G.S. 7A-60(a1), as amended by Section
 27 18B.6 of S.L. 2018-5, reads as rewritten:

28 "(a1) The counties of the State are organized into prosecutorial districts, and each district
 29 has the counties and the number of full-time assistant district attorneys set forth in the following
 30 table:

Prosecutorial District	Counties	No. of Full-Time Asst. District Attorneys
1	Camden, Chowan, Currituck, Dare, Gates, Pasquotank, Perquimans	11
2	Beaufort, Hyde, Martin, Tyrrell, Washington	8
3	Pitt	12
4	Carteret, Craven, Pamlico	13
5	Duplin, Jones, Onslow, Sampson	19
6	New Hanover, Pender	19
7	Bertie, Halifax, Hertford, Northampton	11
8	Edgecombe, Nash, Wilson	19
9	Greene, Lenoir, Wayne	14
10	Franklin, Granville, Person Vance, Warren	14 <u>15</u>
11	Wake	42
12	Harnett, Lee	11
13	Johnston	10

1	14	Cumberland	25
2	15	Bladen, Brunswick, Columbus	14
3	16	Durham	18
4	17	Alamance	12
5	18	Orange, Chatham	10
6	19	Scotland, Hoke	7
7	20	Robeson	12
8	21	Anson, Richmond	6
9	22	Caswell, Rockingham	98
10	23	Stokes, Surry	8
11	24	Guilford	34
12	25	Cabarrus	9
13	26	Montgomery, Randolph	10
14	27	Rowan	9
15	28	Moore	5
16	29	Stanly	5
17	30	Union	11
18	31	Forsyth	27
19	32	Alexander, Iredell	12
20	33	Davidson, Davie	12
21	34	Alleghany, Ashe, Wilkes, Yadkin	9
22	35	Avery, Madison, Mitchell,	8
23		Watauga, Yancey	
24	36	Burke, Caldwell, Catawba	19
25	37	Mecklenburg	58
26	38	Gaston	15
27	39	Cleveland, Lincoln	12
28	40	Buncombe	14
29	41	McDowell, Rutherford	8
30	42	Henderson, Polk, Transylvania	9
31	43	Cherokee, Clay, Graham,	12
32		Haywood, Jackson, Macon, Swain."	

EXEMPT PERSONAL PROPERTY OF CHARTER SCHOOLS FROM PROPERTY TAX

SECTION 25.(a) G.S. 105-275 reads as rewritten:

"§ 105-275. **Property classified and excluded from the tax base.**

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

(46) Real and personal property that is occupied by a charter school and is wholly and exclusively used for educational purposes as defined in ~~G.S. 105-278.4(f)~~G.S. 105-278.4(f), regardless of the ownership of the property.

...

(49) A mobile classroom or modular unit that is occupied by a school and is wholly and exclusively used for educational purposes, as defined in G.S. 105-278.4(f), regardless of the ownership of the property. For the purposes of this subdivision, the term "school" means a public school, including any school operated by a local board of education in a local school administrative unit; ~~a nonprofit charter school~~; a regional school; a nonprofit

1 nonpublic school regulated under Article 39 of Chapter 115C of the General
2 Statutes; or a community college established under Article 2 of Chapter 115D
3 of the General Statutes."

4 **SECTION 25.(b)** This section becomes effective for taxes imposed for taxable years
5 beginning on or after July 1, 2018.

6 7 **MAINTENANCE OF ROADS SURROUNDING SCHOOLS**

8 **SECTION 26.** If Senate Bill 335, 2018 Regular Session, becomes law, Sections
9 7.4(a) and 7.4(b) are repealed.

10 11 **REPEAL STATE BOARD OF EDUCATION POLICIES INCONSISTENT WITH STATE 12 LAW, AS AFFIRMED BY NC SUPREME COURT**

13 **SECTION 27.(a)** The General Assembly finds that the North Carolina Supreme
14 Court, in *North Carolina State Board of Education v. State of North Carolina and Mark Johnson*,
15 No. 333PA17 (June 8, 2018), affirmed the facial constitutionality of S.L. 2016-126 in clarifying
16 the authority of the Superintendent of Public Instruction as the administrative head of the
17 Department of Public Instruction and the Superintendent's role in the direct supervision of the
18 public school system. SBOP-011 (Responsibilities of the SBE in supervising/administering the
19 public school system of NC and the funds provided for its support) and SBOP-013 (Delegation
20 of Authority from the State Board of Education to the Superintendent of Public Instruction) are
21 repealed. The State Board of Education may readopt rules or policies related to internal
22 management that are not inconsistent with the statutory requirements of S.L. 2016-126,
23 including, but not limited to, the requirements of G.S. 115C-11, 115C-19, 115C-21, and
24 143A-441.

25 26 **STATE BOARD OF EDUCATION INTERIM RULES**

27 **SECTION 27.(b)** The General Assembly finds that the North Carolina Supreme
28 Court, in *North Carolina State Board of Education v. State of North Carolina and North Carolina
29 Rules Review Commission*, No. 110PA16-2 (June 8, 2018), affirmed the authority of the General
30 Assembly to delegate authority to the Rules Review Commission to review and approve the
31 administrative rules that are proposed by the State Board of Education for codification. To ensure
32 that administration of the free public schools shall continue without interruption, the existing
33 policies of the State Board of Education subject to rule making as provided in Chapter 150B of
34 the General Statutes shall be deemed interim rules so long as they do not conflict with any
35 provisions of the General Statutes. Any interim rule authorized by this section shall become null
36 and void May 30, 2019, if the State Board of Education has failed to publish a notice of text in
37 the North Carolina Register to adopt that interim rule as a permanent rule, as required by
38 G.S. 150B-21.2. Any interim rule authorized by this section shall become null and void May 30,
39 2020, if the State Board of Education has failed to adopt that interim rule as a permanent rule by
40 that date in accordance with Article 2A of Chapter 150B of the General Statutes.

41 42 **PROHIBIT THE NORTH CAROLINA BOARD OF FUNERAL SERVICE FROM 43 REVOKING OR REFUSING TO RENEW A FUNERAL LICENSE UNDER CERTAIN 44 CIRCUMSTANCES**

45 **SECTION 28.** The North Carolina Board of Funeral Service (Board) shall not revoke
46 or refuse to renew a license to practice funeral directing, embalming, or funeral service based on
47 a test score invalidated by the International Conference of Funeral Service Examining Boards
48 (Conference) if, prior to January 1, 2018, the Conference notified the Board that the licensee had
49 achieved a passing score on the licensing tests required by G.S. 90-210.25. This section shall not
50 apply if the Conference provides the Board with specific proof that a licensee has acted in a
51 manner that requires invalidation of a test score.

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SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 29. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.

SECTION 30. Except as otherwise provided, this act is effective when it becomes law.