

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 385

Senate Agriculture, Energy, and Environment Committee Substitute Adopted 6/6/24
Senate Judiciary Committee Substitute Adopted 6/25/24
Fourth Edition Engrossed 6/26/24

Short Title: Various Energy/Env. Changes. (Public)

Sponsors:

Referred to:

March 16, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS LAWS RELATING TO ENERGY AND
3 ENVIRONMENTAL MATTERS.

4 The General Assembly of North Carolina enacts:

5
6 **PART I. REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO**
7 **REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR**
8 **NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION**
9 **FACILITIES**

10 **SECTION 1.(a)** Part 1 of Article 7 of Chapter 143B of the General Statutes is
11 amended by adding a new section to read:

12 "**§ 143B-279.20. Report on Department activity to process applications for permits**
13 **required for natural gas pipelines and gas-fired electric generation facilities.**

14 The Department of Environmental Quality shall report on any applications received for
15 permits required for siting or operation of natural gas pipelines and gas-fired electric generation
16 facilities within the State, and activities of the Department to process such applications, including
17 tracking of processing times. The processing time tracked shall include (i) the total processing
18 time from when an initial permit application is received to issuance or denial of the permit and
19 (ii) the processing time from when a complete permit application is received to issuance or denial
20 of the permit. The Department shall report quarterly to the Joint Legislative Commission on
21 Energy Policy pursuant to this section."

22 **SECTION 1.(b)** This section is effective when it becomes law and applies to
23 applications for permits for natural gas pipelines and gas-fired electric generation facilities
24 pending on or received on or after that date. The Department shall submit the initial report due
25 pursuant to G.S. 143B-279.20, as enacted by this section, no later than October 1, 2024.

26
27 **PART II. INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED**
28 **AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER**
29 **SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING**
30 **FACILITIES, AND MAKE CONFORMING CHANGES TO UPDATE STATUTES**
31 **RELATING TO DAMAGE TO UTILITIES**

32 **SECTION 2.(a)** G.S. 14-159.1 reads as rewritten:

33 "**§ 14-159.1. Contaminating or injuring a public water system; injuring a**
34 **wastewater treatment facility.**



1 (a) ~~A person commits the offense of contaminating a public water system, as defined in~~
2 ~~G.S. 130A-313(10), if he willfully or wantonly: Contaminating a Public Water System. –~~

3 (1) ~~Contaminates, adulterates or otherwise impurifies or attempts~~ It is unlawful to
4 knowingly and willfully contaminate, adulterate, or otherwise impurify, or
5 attempt to contaminate, adulterate or otherwise impurify-impurify, the water
6 in a public water system, as defined in G.S. 130A-313(10), including the water
7 source, with any toxic chemical, biological agent or radiological substance
8 that is harmful to human health, except those added in approved
9 concentrations for water treatment operations; or operations.

10 (2) ~~Damages or tampers with the property or equipment of a public water system~~
11 ~~with the intent to impair the services of the public water system.~~

12 (b) Injuring a Public Water System. – It is unlawful to knowingly and willfully stop,
13 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
14 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a public water
15 system, as defined in G.S. 130A-313(10), with the intent to impair the services of the public
16 water system.

17 (c) Injuring a Wastewater Treatment System. – It is unlawful to knowingly and willfully
18 stop, obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
19 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a wastewater
20 treatment system that is owned or operated by a (i) public utility, as that term is defined under
21 G.S. 62-3, or (ii) local government unit, as defined in G.S. 159G-20(13). For purposes of this
22 section, the term "wastewater treatment facility" means the various facilities and devices used in
23 the treatment of sewage, industrial waste, or other wastes of a liquid nature, including the
24 necessary interceptor sewers, outfall sewers, nutrient removal equipment, pumping equipment,
25 power and other equipment, and their appurtenances.

26 (b)(d) ~~Any person who commits the offense defined in~~ Punishment. – A person who violates
27 subsection (a), (b), or (c) of this section is guilty of a Class C felony. Additionally, a person who
28 violates subsection (a), (b), or (c) of this section shall be ordered to pay a fine of two hundred
29 fifty thousand dollars (\$250,000).

30 (e) Merger. – Each violation of this section constitutes a separate offense and shall not
31 merge with any other offense.

32 (f) Civil Remedies. – Any person whose property or person is injured by reason of a
33 violation of subsection (a), (b), or (c) of this section shall have a right of action on account of
34 such injury done against the person who committed the violation and any person who acts as an
35 accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to
36 the violation of this section. If damages are assessed in such case, the plaintiff shall be entitled
37 to recover treble the amount of damages fixed by the verdict or punitive damages pursuant to
38 Chapter 1D of the General Statutes, together with costs, including attorneys' fees. A violation of
39 subsection (a), (b), or (c) of this section shall constitute willful or wanton conduct within the
40 meaning of G.S. 1D-5(7) in any civil action filed as a result of the violation. The rights and
41 remedies provided by this subsection are in addition to any other rights and remedies provided
42 by law. For purposes of this subsection, the term "damages" includes actual and consequential
43 damages.

44 (g) The provisions of subsection (f) of this section relating to treble damages shall not be
45 made known to the trier of fact through any means, including voir dire, the introduction into
46 evidence, argument, or instructions to the jury.

47 (h) Nothing in this section shall apply to work or activity that is performed at or on a
48 public water supply or wastewater treatment facility by the owner or operator of the facility, or
49 an agent of the owner or operator authorized to perform such work or activity by the owner or
50 operator.

1 (i) For purposes of this section, the term "property or equipment" shall include hardware,
2 software, or other digital infrastructure necessary for the operations of a public water system or
3 wastewater treatment system."

4 **SECTION 2.(b)** G.S. 143-152 is repealed.

5 **SECTION 2.(c)** G.S. 62-323 reads as rewritten:

6 "**§ 62-323. Willful injury to property of public utility a ~~misdemeanor~~-felony.**

7 (a) If any person shall willfully do or cause to be done any act or acts whatever whereby
8 any building, construction or work of any public utility, or any engine, machine or structure or
9 any matter or thing appertaining to the same same, including hardware, software, or other digital
10 infrastructure necessary for the operations of the public utility, shall be stopped, obstructed,
11 impaired, weakened, injured or destroyed, he shall be guilty of a ~~Class 1 misdemeanor~~-Class C
12 felony.

13 (b) Merger. – Each violation of this section constitutes a separate offense and shall not
14 merge with any other offense.

15 (c) Civil Remedies. – Any person whose property or person is injured by reason of a
16 violation of subsection (a) of this section shall have a right of action on account of such injury
17 done against the person who committed the violation and any person who acts as an accessory
18 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation
19 of this section. If damages are assessed in such case, the plaintiff shall be entitled to recover
20 treble the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D
21 of the General Statutes, together with costs, including attorneys' fees. A violation of subsection
22 (a) of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7)
23 in any civil action filed as a result of the violation. The rights and remedies provided by this
24 subsection are in addition to any other rights and remedies provided by law. For purposes of this
25 subsection, the term "damages" includes actual and consequential damages.

26 (d) The provisions of subsection (c) of this section relating to treble damages shall not be
27 made known to the trier of fact through any means, including voir dire, the introduction into
28 evidence, argument, or instructions to the jury.

29 (e) The provisions of this section shall only apply to conduct resulting in injury to a public
30 utility, or property thereof, not otherwise covered by G.S. 14-150.2, 14-154, or 14-159.1.

31 (f) Nothing in this section shall apply to work or activity that is performed at or on a
32 public utility by the owner or operator of the utility, or an agent of the owner or operator
33 authorized to perform such work or activity by the owner or operator."

34 **SECTION 2.(d)** Article 22 of Chapter 14 of the General Statutes is amended by
35 adding a new section to read:

36 "**§ 14-150.3. Injuring manufacturing facility.**

37 (a) Injuring a Manufacturing Facility. – It is unlawful to knowingly and willfully stop,
38 obstruct, impair, weaken, destroy, injure, or otherwise damage, or attempt to stop, obstruct,
39 impair, weaken, destroy, injure, or otherwise damage, the property or equipment of a
40 manufacturing facility. For purposes of this section: (i) the term "manufacturing facility" means
41 a facility used for the lawful production or manufacturing of goods; and (ii) the term "property
42 or equipment" shall include hardware, software, or other digital infrastructure necessary for the
43 operations of the manufacturing facility.

44 (b) Punishment. – A person who violates subsection (a) of this section is guilty of a Class
45 C felony. Additionally, a person who violates subsection (a) of this section shall be ordered to
46 pay a fine of two hundred fifty thousand dollars (\$250,000).

47 (c) Merger. – Each violation of this section constitutes a separate offense and shall not
48 merge with any other offense.

49 (d) Civil Remedies. – Any person whose property or person is injured by reason of a
50 violation of subsection (a) of this section shall have a right of action on account of such injury
51 done against the person who committed the violation and any person who acts as an accessory

1 before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation
2 of this section. If damages are assessed in such case, the plaintiff shall be entitled to recover
3 treble the amount of damages fixed by the verdict or punitive damages pursuant to Chapter 1D
4 of the General Statutes, together with costs, including attorneys' fees. A violation of subsection
5 (a) of this section shall constitute willful or wanton conduct within the meaning of G.S. 1D-5(7)
6 in any civil action filed as a result of the violation. The rights and remedies provided by this
7 subsection are in addition to any other rights and remedies provided by law. For purposes of this
8 subsection, the term "damages" includes actual and consequential damages.

9 (e) The provisions of subsection (d) of this section relating to treble damages shall not be
10 made known to the trier of fact through any means, including voir dire, the introduction into
11 evidence, argument, or instructions to the jury.

12 (f) Nothing in this section shall apply to (i) work or activity that is performed at or on a
13 manufacturing facility by the owner or operator of the facility, or an agent of the owner or
14 operator authorized to perform such work or activity by the owner or operator, and (ii) lawful
15 activity authorized or required pursuant to State or federal law."

16 **SECTION 2.(e)** G.S. 1D-27 reads as rewritten:

17 **"§ 1D-27. Injuring ~~energy~~ energy, water, wastewater, or manufacturing facility; exemption**
18 **from cap.**

19 G.S. 1D-25(b) shall not apply to a claim for punitive damages for injury or harm arising from
20 actions of the defendant that constitute a violation of ~~G.S. 14-150.2(b)~~.G.S. 14-150.2(b),
21 14-150.3(a), 14-159.1(a), (b), or (c), or 62-323(a)."

22 **SECTION 2.(f)** Prosecutions for offenses committed before the effective date of this
23 act are not abated or affected by this act, and the statutes that would be applicable but for this act
24 remain applicable to those prosecutions.

25 **SECTION 2.(g)** This section becomes effective December 1, 2024, and applies to
26 offenses committed on or after that date.

27
28 **PART III. PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND**
29 **LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS**
30 **DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF**
31 **COMMERCE**

32 **SECTION 3.(a)** Chapter 64 of the General Statutes is amended by adding a new
33 Article to read:

34 "Article 3.

35 "Prohibit Adversarial Foreign Government Acquisition of High Purity Quartz.

36 **"§ 64-50. Title.**

37 This act shall be known and be cited as the North Carolina High Purity Quartz Protection
38 Act.

39 **"§ 64-51. Purpose.**

40 The General Assembly finds that high purity quartz is a highly valuable resource used in the
41 manufacture of semiconductors, optical fibers, circuit boards, and other technologically advanced
42 components and it is therefore in the public interest for the State to guard its deposits of high
43 purity quartz from the potential of adversarial foreign government control in order to protect our
44 vital mineral and economic resources.

45 **"§ 64-52. Definitions.**

46 As used in this Article, the following definitions apply:

- 47 (1) Adversarial foreign government. – A state-controlled enterprise or the
48 government of a foreign nation that has received a designation under 15 C.F.R.
49 § 7.4 from a determination by the United States Secretary of Commerce that
50 the entity has engaged in a long-term pattern or serious instances of conduct

1 significantly adverse to the national security of the United States or security
 2 and safety of United States persons.

3 (2) Controlling interest. – Possession of more than fifty percent (50%) of the
 4 ownership interest in an entity. The term also includes possession of fifty
 5 percent (50%) or less of the ownership interest in an entity if an owner directs
 6 the business and affairs of the entity without the requirement or consent of any
 7 other party.

8 (3) High purity quartz. – A mineral made of silicon dioxide and containing fewer
 9 than 50 parts per million of impurity elements.

10 (4) Interest. – Any estate, remainder, or reversion, or any portion of the estate,
 11 remainder, or reversion, or an option pursuant to which one party has a right
 12 to cause the transfer of legal or equitable title to land covered by
 13 G.S. 64-53(a); or ownership or partial ownership of a mining operation
 14 covered under G.S. 64-53(a).

15 (5) State-controlled enterprise. – A business enterprise, however denominated, in
 16 which a foreign government has a controlling interest.

17 **§ 64-53. Adversarial foreign government acquisition of high purity quartz resources**
 18 **prohibited.**

19 (a) Notwithstanding any provision of law to the contrary, no adversarial foreign
 20 government shall purchase, acquire, lease, or hold any interest in the following:

21 (1) A quartz mining operation.

22 (2) Land containing commercially valuable amounts of high purity quartz.

23 (b) Any transfer of an interest in land or a mining operation in violation of this section
 24 shall be void.

25 (c) The responsibility for determining whether an individual or other entity is subject to
 26 this Article rests solely with the United States Secretary of Commerce and the State of North
 27 Carolina and no other individual or entity. An individual or other entity who is not an adversarial
 28 foreign government shall bear no civil or criminal liability for failing to determine or make
 29 inquiry of whether an individual or other entity is an adversarial foreign government."

30 **SECTION 3.(b)** This section is effective when it becomes law and applies only to
 31 ownership interests acquired on and after that date.

32
 33 **PART IV. EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY**
 34 **THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED**
 35 **AT AN EXISTING OR FORMER ELECTRIC GENERATING FACILITY**

36 **SECTION 4.(a)** G.S. 143-214.1A reads as rewritten:

37 **§ 143-214.1A. Water quality certification requirements for certain projects.**

38 (a) The following requirements shall govern applications for certification filed with the
 39 Department pursuant to section 401 of the Clean Water Act, 33 U.S.C. § 1341(a)(1), for
 40 maintenance dredging projects partially funded by the Shallow Draft Navigation Channel
 41 Dredging and Aquatic Weed ~~Fund~~-Fund, electric generation projects located at an existing or
 42 former electric generating facility, and projects involving the distribution or transmission of
 43 energy or fuel, including natural gas, diesel, petroleum, or electricity:

44"

45 **SECTION 4.(b)** This section is effective when it becomes law and applies to
 46 applications for 401 Certification pending or submitted on or after that date.

47
 48 **PART V. PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING**
 49 **UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS**
 50 **FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT**

1 **SECTION 5.(a)** Chapter 162A of the General Statutes is amended by adding a new
2 Article to read:

3 "Article 11.

4 "Miscellaneous.

5 **"§ 162A-900. Limitations on allocating service for residential development.**

6 (a) For purposes of this section, "residential development" means new development of
7 single-family or multifamily housing.

8 (b) A local government unit, as defined in G.S. 162A-201, shall not require an applicant
9 for water or sewer service for residential development to agree to any condition not otherwise
10 authorized by law, or to accept any offer by the applicant to consent to any condition not
11 otherwise authorized by law. These conditions include, without limitation, any of the following:

12 (1) Payment of taxes, impact fees or other fees, or contributions to any fund.

13 (2) Adherence to any restrictions related to land development or land use,
14 including those within the scope of G.S. 160D-702(c).

15 (3) Adherence to any restrictions related to building design elements within the
16 scope of G.S. 160D-702(b).

17 (c) A local government unit, as defined in G.S. 162A-201, shall not implement a scoring
18 or preference system to allocate water or sewer service among applicants for water or sewer
19 service for residential development that does any of the following:

20 (1) Includes consideration of building design elements, as defined in
21 G.S. 160D-702(b).

22 (2) Sets a minimum square footage of any structures subject to regulation under
23 the North Carolina Residential Code.

24 (3) Requires a parking space to be larger than 9 feet wide by 20 feet long unless
25 the parking space is designated for handicap, parallel, or diagonal parking.

26 (4) Requires additional fire apparatus access roads into developments of one- or
27 two-family dwellings that are not in compliance with the required number of
28 fire apparatus access roads into developments of one- or two-family dwellings
29 set forth in the Fire Code of the North Carolina Residential Code."

30 **SECTION 5.(b)** This section is effective when it becomes law.

31
32 **PART VI. SWINE FARM SITING ACT TECHNICAL CORRECTION**

33 **SECTION 6.(a)** G.S. 106-803(a2) reads as rewritten:

34 "(a2) No component of a liquid animal waste management system for which a permit is
35 required under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General Statutes, other
36 than a land application site, shall be constructed on land that is located within the 100-year
37 floodplain."

38 **SECTION 6.(b)** G.S. 106-805 reads as rewritten:

39 **"§ 106-805. Written notice of swine farms.**

40 Any person who intends to construct a swine farm whose animal waste management system
41 is subject to a permit under ~~Part 1 or 1A~~ Part 1A of Article 21 of Chapter 143 of the General
42 Statutes shall, after completing a site evaluation and before the farm site is modified, notify all
43 adjoining property owners; all property owners who own property located across a public road,
44 street, or highway from the swine farm; the county or counties in which the farm site is located;
45 and the local health department or departments having jurisdiction over the farm site of that
46 person's intent to construct the swine farm. This notice shall be by certified mail sent to the
47 address on record at the property tax office in the county in which the land is located. Notice to
48 a county shall be sent to the county manager or, if there is no county manager, to the chair of the
49 board of county commissioners. Notice to a local health department shall be sent to the local
50 health director. The written notice shall include all of the following:

51 (1) The name and address of the person intending to construct a swine farm.

- 1 (2) The type of swine farm and the design capacity of the animal waste
2 management system.
- 3 (3) The name and address of the technical specialist preparing the waste
4 management plan.
- 5 (4) The address of the local Soil and Water Conservation District office.
- 6 (5) Information informing the adjoining property owners and the property owners
7 who own property located across a public road, street, or highway from the
8 swine farm that they may submit written comments to the Division of Water
9 Resources, Department of Environmental Quality."

10
11 **PART IX. NATURAL GAS LOCAL DISTRIBUTION COMPANIES COST RECOVERY**
12 **MODIFICATIONS**

13 **SECTION 9.(a)** G.S. 62-133.4 reads as rewritten:

14 **"§ 62-133.4. Gas cost adjustment for natural gas local distribution companies.**

15 ...

16 (c) Each natural gas local distribution company shall submit to the Commission
17 information and data for an historical 12-month test period concerning the utility's actual cost of
18 gas, volumes of purchased gas, sales volumes, negotiated sales volumes, and transportation
19 volumes. This information and data shall be filed on an annual basis in the form and detail and
20 at the time required by the Commission. The Commission, upon notice and hearing, shall
21 compare the utility's prudently incurred costs with costs recovered from all the utility's customers
22 that it served during the test period. If those prudently incurred costs are greater or less than the
23 recovered costs, the Commission shall, subject to G.S. 62-158, require the utility to refund any
24 overrecovery by credit to bill or through a decrement in its rates and shall permit the utility to
25 recover any deficiency through an increment in its rates. If the Commission finds the
26 overrecovery or deficiency has been or is likely to be substantially reduced, negated, or reversed
27 before or during the period in which it would be credited or recovered, the Commission, in its
28 discretion, may order the utility to make an appropriate adjustment or no adjustment to its rates,
29 consistent with the public interest.

30 ...

31 (d1) The utility shall not recover from ratepayers, in any rate recovery proceeding or rider,
32 the incremental cost of natural gas attributable to renewable energy biomass resources that
33 exceeds the average system cost of gas unattributable to renewable energy biomass resources
34 calculated and filed with the Commission pursuant to subsection (c) of this section. Each natural
35 gas local distribution company that incurs costs attributable to renewable energy biomass
36 resources shall submit the utility's actual cost thereof to the Commission monthly for purposes
37 of determining the total amount of natural gas costs recoverable under this section.

38 (e) ~~As used in this section, the word "cost" or "costs" shall be defined by Commission~~
39 ~~rule or order and may include all costs related to the purchase and transportation of natural gas~~
40 ~~to the natural gas local distribution company's system.~~ The following definitions apply in this
41 section:

- 42 (1) "Cost" or "costs" shall be defined by Commission rule or order and may
43 include all costs related to the production, purchase, and transportation of
44 natural gas to the natural gas local distribution company's system.
- 45 (2) "Domestic wastewater" means water-carried human wastes together with all
46 other water-carried wastes normally present in wastewater from non-industrial
47 processes.
- 48 (3) "Natural gas" or "gas" includes gas derived from renewable energy biomass
49 resources.
- 50 (4) "Renewable energy biomass resources" includes agricultural waste, animal
51 waste, wood waste, spent pulping liquors, organic waste, combustible

residues, combustible gases, energy crops, landfill methane, or domestic wastewater."

SECTION 9.(b) G.S. 62-133.7A reads as rewritten:

"§ 62-133.7A. Rate adjustment ~~mechanism~~ mechanisms for natural gas local distribution company rates.

(a) In setting rates for a natural gas local distribution company in a general rate case proceeding under G.S. 62-133, the Commission may adopt, implement, modify, or eliminate a rate adjustment ~~mechanism~~ mechanisms to enable the company to recover the prudently incurred capital investment and associated costs of ~~complying~~ any of the following, including a return based on the company's then authorized return:

(1) Complying with federal gas pipeline safety requirements, including a return based on the company's then authorized return requirements.

(2) Producing and transporting natural gas, as defined in G.S. 62-133.4(e)(3), or consistent with the intent and purpose of G.S. 62-133.4.

(b) The Commission shall adopt, implement, modify, or eliminate ~~a~~ any of the rate adjustment ~~mechanism~~ mechanisms authorized under this section only upon a finding by the Commission that the mechanism is in the public interest."

SECTION 9.(c) This section is effective when it becomes law and applies to rate case proceedings filed on or after that date.

PART X. EXCLUDE AQUACULTURE FROM THE DEFINITION OF "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING AQUACULTURE EQUIPMENT

SECTION 10.(a) G.S. 113A-103 reads as rewritten:

"§ 113A-103. Definitions.

...

(5) a. "Development" means any activity in a duly designated area of environmental concern (except as provided in paragraph b of this subdivision) involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging; filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alteration of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal; or placement of a floating ~~structure~~ structure, except a floating structure used primarily for aquaculture as defined in G.S. 106-758 and associated with an active shellfish cultivation lease area or franchise, in an area of environmental concern identified in G.S. 113A-113(b)(2) or (b)(5).

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

...

4. The use of any land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products, including normal private road construction, raising livestock or poultry, uses related to aquaculture and aquaculture facilities as defined in G.S. 106-758 and associated with an active shellfish cultivation lease area or franchise, or for other agricultural purposes except where

excavation or filling affecting estuarine waters (as defined in G.S. 113-229) or navigable waters is involved;

(5a) "Floating structure" means any structure, not a boat, supported by a means of floatation, designed to be used without a permanent foundation, which is used or intended for human habitation or commerce. A structure shall be considered a floating structure when it is inhabited or used for commercial purposes for more than thirty days in any one location. A boat may be considered a floating structure when its means of propulsion has been removed or rendered inoperative.

...."

SECTION 10.(b) G.S. 143B-289.52 is amended by adding a new subsection to read:

"(j) The Commission may not adopt rules regulating cages, poles, anchoring systems, or any above-water frames or structural supports used to suspend or hold in place equipment or floating structures used for aquaculture as defined in G.S. 106-758."

SECTION 10.(c) No later than August 1, 2024, the Department of Environmental Quality shall prepare and submit to the United States National Oceanic and Atmospheric Administration for approval by that agency the proposed changes made to Article 7 of Chapter 113A of the General Statutes, as enacted by subsection (a) of this section. The Department of Environmental Quality shall report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this reporting requirement.

SECTION 10.(d) Subsection (a) of this section becomes effective on the later of the following dates and applies to applications for permits pending or filed on or after that date:

- (1) October 1, 2024.
- (2) The first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the National Oceanic and Atmospheric Administration has approved the changes made to Article 7 of Chapter 113A of the General Statutes, as enacted by subsection (a) of this section, as required by subsection (c) of this section. The Secretary shall provide this notice along with the effective date of subsection (a) of this section on its website. The remainder of this section is effective when it becomes law.

PART XII. REMOVE TIME LIMITS ON CERTAIN VUR GRANTS

SECTION 12. G.S. 159G-36(d)(2) reads as rewritten:

"(2) Grants for the purpose set forth in ~~G.S. 159-32(d)(6)~~ G.S. 159G-32(d)(6) to any single local government unit shall not ~~(i) exceed seven hundred fifty thousand dollars (\$750,000) in any fiscal year and (ii) be awarded for more than three consecutive fiscal years.~~ year."

PART XIII. ESTABLISH A TIME LIMIT FOR REVIEW OF APPLICATIONS SUBMITTED TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR WATER DISTRIBUTION SYSTEMS TO CONSTRUCT OR ALTER A PUBLIC WATER SYSTEM

SECTION 13.(a) G.S. 130A-328 is amended by adding a new subsection to read:

"(c1) The Department shall perform a review of an application for a water distribution system authorization subject to the following requirements:

- (1) The Department shall review the application within 45 days of receipt of a complete application when a professional engineer provides certification that the design meets or exceeds the Minimum Design Criteria developed by the

1 Department applicable to the project. For purposes of this section, a complete
2 application is defined as an application that includes all of the required
3 components described in the application form.

4 (2) The Department shall perform an administrative review of a new application
5 within 10 days of receipt to determine if all required information is included
6 in the application. If the application is complete, the Department shall issue a
7 receipt letter or electronic response stating that the application is complete and
8 that a 45-calendar-day technical review period has started as of the date on
9 which the Department received the complete application. If required items or
10 information are not included in the application, the application is incomplete,
11 and the Department shall issue an application receipt letter or electronic
12 response identifying the information required to complete the application
13 before the technical review begins. When the Department receives the
14 required information, the Department shall issue a receipt letter or electronic
15 response specifying that the application is complete and that the
16 45-calendar-day review period has started as of the date on which the
17 Department received the remaining required information.

18 (3) If additional information is required to complete the technical review, the
19 Department shall issue a request for additional information required to
20 complete the review, and the 45-calendar-day technical review period shall
21 pause until the additional information is received. If the Department does not
22 receive the requested additional information from the applicant within 30
23 calendar days, the Department shall return the application to the applicant.

24 (4) If the Department receives the additional information from the applicant
25 within 30 days, the technical review period review time shall restart, and the
26 Department shall complete its review within the number of days that remained
27 in the technical review period on the date the technical review period was
28 paused by the request for additional information.

29 (5) Should the Department not complete its review of the application within the
30 45-day technical review period, the application shall be considered deemed
31 approved."

32 **SECTION 13.(b)** This section becomes effective December 1, 2024, and applies to
33 applications submitted on or after that date.

34 35 **PART XIV. AMEND STATUTES AND RULES APPLICABLE TO DOCK, PIER, AND** 36 **WALKWAY REPLACEMENT IN THE COASTAL AREA**

37 **SECTION 14.(a)** Definitions. – For purposes of this section:

38 (1) "CAMA Rules" means 15A NCAC Subchapter 07J (Procedures for
39 Processing and Enforcement of Major and Minor Development Permits,
40 Variance Requests, Appeals from Permit Decisions, Declaratory Rulings, and
41 Static Line Exceptions).

42 (2) "Replacement of Existing Structures Rule" means 15A NCAC 07J .0210
43 (Replacement of Existing Structures).

44 **SECTION 14.(b)** Replacement of Existing Structure. – Until the effective date of
45 the revised permanent rules that the Coastal Resources Commission is required to adopt pursuant
46 to subsection (d) of this section, the Commission shall implement the Replacement of Existing
47 Structures Rule and the CAMA Rules as provided in subsection (c) of this section.

48 **SECTION 14.(c)** Implementation. – For fixed docks, floating docks, fixed piers,
49 floating piers, or walkways damaged or destroyed by natural elements, fire, or normal
50 deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be
51 considered repair of the structure, and shall not require CAMA permits, without regard to the

percentage of framing and structural components required to be rebuilt. At the time a dock, pier, or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired, the width and length of the dock, pier, or walkway structure may be enlarged by not more than 5 feet or five percent (5%), whichever is less, and the structure may be heightened, without need for a CAMA permit. The owner shall, however, be required to comply with all other applicable State and federal laws. The provisions of this subsection shall not apply to docks and piers (i) greater than 6 feet in width, (ii) greater than 800 square feet of platform area, or (iii) that are adjacent to a federal navigation channel.

SECTION 14.(d) Additional Rulemaking Authority. – The Commission shall adopt rules to amend the Replacement of Existing Structures Rule and any other pertinent CAMA Rules consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1), as though 10 or more written objections had been received as provided in G.S. 150B-21.3(b2).

SECTION 14.(e) Sunset. – This section expires when permanent rules adopted as required by subsection (d) of this section become effective.

SECTION 14.(f) No later than August 1, 2024, the Department of Environmental Quality shall prepare and submit to the United States National Oceanic and Atmospheric Administration for approval by that agency the proposed changes made to the CAMA Rules, as enacted by this section. The Department of Environmental Quality shall report to the Environmental Review Commission on the status of their activities pursuant to this section quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this reporting requirement.

SECTION 14.(g) Subsections (a) through (e) of this section become effective on the later of the following dates and apply to applications for permits pending or filed on or after that date:

(1) October 1, 2024.

(2) The first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the National Oceanic and Atmospheric Administration has approved the changes made to the CAMA Rules, as enacted by subsections (a) through (e) of this section, as required by subsection (f) of this section. The Secretary shall provide this notice along with the effective date of this act on its website.

SECTION 14.1.(a) G.S. 160D-1104 is amended by adding a new subsection to read:

"(g) No later than 60 days after an inspection of a dock, pier, or catwalk or walkway that has been replaced in the coastal area, as that term is defined under G.S. 113A-103(2), an inspection department shall notify the Division of Coastal Management of the replacement."

SECTION 14.1.(b) Notwithstanding Section 35 of S.L. 2023-137, the North Carolina Residential Building Code shall not require a professional engineer or architect to design or otherwise certify the construction of residential docks, piers, or catwalks or walkways.

PART XV. PROHIBIT CERTAIN BACKFLOW PREVENTER REQUIREMENTS BY PUBLIC WATER SYSTEMS

SECTION 15.(a) Article 10 of Chapter 130A of the General Statutes is amended by adding a new section to read:

"§ 130A-330. Local authority to require backflow preventers; testing.

(a) No public water system owned or operated by a local government unit, as that term is defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an existing nonresidential or residential connection, including multifamily dwellings, not otherwise

1 required by State or federal law except where the degree of hazard from the customer's
2 connection is determined to be high by the Department.

3 (b) The limitation established in subsection (a) of this section shall not be construed to
4 prohibit requirements for installation of backflow preventers pursuant to the North Carolina
5 Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's
6 plumbing, facility addition on the customer's property, or change in use of the property served
7 by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited
8 to the service line between the home or building and the meter, and without a change in use or
9 facility addition, does not necessitate a backflow preventer. An increase in the flow of water to
10 the home or building, without a change in use or facility addition, does not necessitate a backflow
11 preventer.

12 (c) A public water system owned or operated by a local government unit, and its
13 employees, including the Cross Connection Control Operator in Responsible Charge, is immune
14 from civil liability in tort from any loss, damage, or injury arising out of or relating to the
15 backflow of water into potable water supply systems where a backflow preventer is not required
16 by State or federal law, or where the degree of hazard from the customer's connection is not
17 determined to be high by the Department.

18 (d) The Department shall determine whether the degree of hazard for a service connection
19 is high when the installation of a backflow preventer is not otherwise required by State or federal
20 law. The Department shall provide notice of such determinations on its website.

21 (e) Nothing in this section shall prohibit a public water system owned or operated by a
22 local government unit from requiring the installation of a backflow preventer if the system pays
23 all costs associated with the backflow preventer, including the device, installation, and
24 appropriate landscaping.

25 (f) No public water system owned or operated by a local government unit shall require
26 periodic testing more frequently than once every three years for backflow preventers installed or
27 replaced within the last 10 years on residential irrigation systems that do not apply or dispose
28 chemical feeds.

29 (g) A public water system owned or operated by a local government, and its employees,
30 including the Cross Connection Control Operator in Responsible Charge, is immune from civil
31 liability in tort from any loss, damage, or injury resulting from compliance with the limitations
32 on periodic testing provided in subsection (f) of this section.

33 (h) A public water system owned or operated by a local government unit may accept the
34 results of backflow preventer testing conducted by a plumbing contractor licensed under Article
35 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester
36 approved by the public water system.

37 (i) For purposes of this section, the following definitions apply:

38 (1) "Backflow preventer" means an assembly, device, or method that prohibits the
39 backflow of water into potable water supply systems.

40 (2) "Certified backflow prevention assembly tester" means an individual who
41 holds a certificate of completion from a training program in the testing of
42 backflow preventers.

43 (3) "High hazard" means a cross-connection or potential cross-connection
44 involving any substance that could, if introduced into the potable water
45 supply, cause illness or death, spread disease, or have a high probability of
46 causing such effects.

47 (4) "Qualified instructor" means an individual who holds an active and current
48 Cross-Connection Control Operator certification issued by the Water
49 Treatment Facility Operators Board of Certification.

- 1 (5) "Training program" means a program of classroom training, education, and
 2 instruction and a written practical examination provided by a qualified
 3 instructor offered by any of the following:
 4 a. A public water system owned and operated by a local government unit.
 5 b. A North Carolina community college.
 6 c. A North Carolina nonprofit corporation that is exempt from federal
 7 income tax under section 501(c)(3) of the Internal Revenue Code,
 8 whose membership primarily consists of public water systems owned
 9 or operated by local government units, that offers other certification
 10 programs and provides on-site technical assistance and training for
 11 public water systems across the State."

12 **SECTION 15.(b)** G.S. 150B-2 reads as rewritten:

13 **"§ 150B-2. Definitions.**

14 As used in this Chapter, the following definitions apply:

- 15 ...
- 16 (8a) Rule. – Any agency regulation, standard, or statement of general applicability
 17 that implements or interprets an enactment of the General Assembly or
 18 Congress or a regulation adopted by a federal agency or that describes the
 19 procedure or practice requirements of an agency. The term includes the
 20 establishment of a fee and the amendment or repeal of a prior rule. The term
 21 does not include the following:
 22 ...
- 23 m. Determinations by the Department of Environmental Quality of high
 24 hazards pursuant to G.S. 130A-330.

25 "

26 **SECTION 15.(c)** This section is effective when it becomes law and applies to
 27 requirements for installation or testing of backflow preventers made by a public water supply on
 28 or after that date.

29
 30 **PART XVI. EXEMPT CERTAIN FOOD SERVICE ESTABLISHMENTS FROM**
 31 **SEPTAGE MANAGEMENT FIRM PERMITTING REQUIREMENTS**

32 **SECTION 16.(a)** G.S. 130A-291.1 is amended by adding a new subsection to read:

- 33 "(k) A food service establishment not involved in pumping or vacuuming a grease
 34 appurtenance does not need a permit under this section."

35 **SECTION 16.(b)** This section is effective when it becomes law.

36
 37 **PART XVII. AUTHORIZE REPLACEMENT OF CERTAIN EROSION CONTROL**
 38 **STRUCTURES**

39 **SECTION 17.(a)** G.S. 113A-115.1 reads as rewritten:

40 **"§ 113A-115.1. Limitations on erosion control structures.**

41 (a) As used in this section:

- 42 (1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty,
 43 revetment, seawall, or any similar structure.
 44 (1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that
 45 border estuarine waters as defined in G.S. 113A-113(b)(2).
 46 (2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and
 47 frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands
 48 adjacent to an ocean inlet but does not include that portion of any inlet and
 49 lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.
 50 (3) "Terminal groin" means one or more structures constructed at the terminus of
 51 an island or on the side of an ~~inlet~~, inlet, or where the ocean shoreline

1 converges with Frying Pan Shoals, with a main stem generally perpendicular
2 to the beach shoreline, that is primarily intended to protect the terminus of the
3 island from shoreline erosion ~~and or~~ inlet migration. A "terminal groin" shall
4 be pre-filled with beach quality sand and allow sand moving in the littoral
5 zone to flow ~~past-around, over, or through~~ the structure. A "terminal groin"
6 may include other design features, such as a number of smaller supporting
7 structures, that are consistent with sound engineering practices and as
8 recommended by a professional engineer licensed to practice pursuant to
9 Chapter 89C of the General Statutes. A "terminal groin" is not a jetty.

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

- 14 (1) Any permanent erosion control structure that is approved pursuant to an
15 exception set out in a rule adopted by the Commission prior to July 1, 2003.
- 16 (2) Any permanent erosion control structure that was originally constructed prior
17 to July 1, 1974, and that has since been in continuous use to protect an inlet
18 that is maintained for navigation.
- 19 (3) Any terminal groin permitted pursuant to this section.

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

23 (c) The Commission may renew a permit for a permanent erosion control structure
24 originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995, if
25 the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set out
26 in the original permit; (ii) there is no practical alternative to replacing the structure that will
27 provide the same or similar benefits; and (iii) the replacement structure will comply with all
28 applicable laws and with all rules, other than the rule or rules with respect to which the
29 Commission granted the variance, that are in effect at the time the structure is ~~replaced-replaced,~~
30 except as otherwise provided in this subsection. If a permanent erosion control structure
31 originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995,
32 consists of a field of geotextile sand tubes, the field of geotextile sand tubes may be replaced with
33 rock erosion control structures subject to the following criteria:

- 34 (1) The number of rock erosion control structures shall be equal to or less than
35 the number of geotextile sand tubes originally permitted.
- 36 (2) The structure(s) or field of structures may consist of groins, including T-head
37 or lollipop groins, or breakwaters to be approved by the Division of Coastal
38 Management, in its discretion, or by variance from the Coastal Resources
39 Commission.
- 40 (3) The structure field shall not be enlarged beyond the alongshore dimensions
41 authorized under the original permit, and the aggregate overall length of the
42 rock structures shall not exceed the aggregate overall length of the geotextile
43 sand tubes authorized under the original permit.
- 44 (4) The plans for the work shall be sealed by a professional engineer licensed to
45 practice pursuant to Chapter 89C of the General Statutes with experience in
46 engineering in the coastal area.

47 The Commission shall permit replacement of the geotextile sand tubes with rock erosion
48 control structures meeting the criteria of subdivisions (1) through (4) of this subsection as
49 replacement of the permanent erosion control structure originally permitted. Such a permanent
50 erosion control structure is not a terminal groin and shall not be subject to the provisions of this
51 section applicable to terminal groins.

1 ...
2 (g) The Commission may issue no more than ~~six~~seven permits for the construction of a
3 terminal groin pursuant to this section, provided that two of the ~~six~~seven permits may be issued
4 only for the construction of terminal groins on the sides of New River Inlet in Onslow County
5 and Bogue Inlet between Carteret and Onslow Counties.

6"

7 **SECTION 17.(b)** No later than August 1, 2024, the Department of Environmental
8 Quality shall prepare and submit to the United States National Oceanic and Atmospheric
9 Administration for approval by that agency the proposed changes made to G.S. 113A-115.1, as
10 amended by subsection (a) of this section. The Department of Environmental Quality shall report
11 to the Environmental Review Commission on the status of their activities pursuant to this section
12 quarterly, beginning September 1, 2024, until such time as the General Assembly repeals this
13 reporting requirement.

14 **SECTION 17.(c)** Subsection (a) of this section becomes effective on the later of the
15 following dates and applies to applications for permits pending or filed on or after that date:

16 (1) October 1, 2024.

17 (2) The first day of a month that is 60 days after the Secretary of Environmental
18 Quality certifies to the Revisor of Statutes that the National Oceanic and
19 Atmospheric Administration has approved the changes made to
20 G.S. 113A-115.1, as amended by subsection (a) of this section, as required by
21 subsection (b) of this section. The Secretary shall provide this notice along
22 with the effective date of this section on its website.

23
24 **PART XVIII. ADD COMPOST TO RIGHT TO FARM/NUISANCE ACTIONS**
25 **STATUTE**

26 **SECTION 18.(a)** G.S. 106-701 reads as rewritten:

27 "**§ 106-701. Right to farm defense; nuisance actions.**

28 (a) No nuisance action may be filed against an agricultural or forestry operation unless
29 all of the following apply:

30 (1) The plaintiff is a legal possessor of the real property affected by the conditions
31 alleged to be a nuisance.

32 (2) The real property affected by the conditions alleged to be a nuisance is located
33 within one half-mile of the source of the activity or structure alleged to be a
34 nuisance.

35 (3) The action is filed within one year of the establishment of the agricultural or
36 forestry operation or within one year of the operation undergoing a
37 fundamental change.

38 (a1) For the purposes of subsection (a) of this section, a fundamental change to the
39 operation does not include any of the following:

40 (1) A change in ownership or size.

41 (2) An interruption of farming for a period of no more than three years.

42 (3) Participation in a government-sponsored agricultural program.

43 (4) Employment of new technology.

44 (5) A change in the type of agricultural or forestry product produced.

45 (a2) Repealed by Session Laws 2018-113, s. 10(a), effective June 27, 2018.

46 (b) For the purposes of this Article, "agricultural operation" includes, without limitation,
47 a Type I compost facility, and any facility for the production for commercial purposes of crops,
48 livestock, poultry, livestock products, or poultry products.

49"

50 **SECTION 18.(b)** This section is effective when it becomes law and applies to
51 actions filed on or after that date.

1
2 **PART XVIII.I RURAL ELECTRIFICATION AUTHORITY/FEE UPDATE**
3

4 **SECTION 18.1.(a)** G.S. 117-3 reads as rewritten:

5 "**§ 117-3. Authority not granted power to fix rates or order line extensions; right of**
6 **suggestion and petition.**

7 ~~The Except as provided in G.S. 117-3.1(b), the~~ Authority itself shall not be a rate-making
8 body, and shall have no power to fix the rates or service charges, or to order the extension of
9 lines by the power companies. ~~The Except as provided in G.S. 117-3.1(b), the~~ function of making
10 rates and service charges and orders for the extension of lines shall remain in the Utilities
11 Commission of North Carolina, and the Authority shall only have the right of suggestion and
12 petition to the Utilities Commission of its opinion as to the proper rates and service charges and
13 line extensions, and no rate recommended or suggested by the Authority shall be effective until
14 approved by the Utilities Commission: Provided, that if the Utilities Commission of North
15 Carolina does not have the right under the existing law to fix service charges in addition to the
16 rates prescribed for electrical energy, and the power to order line extensions, such power and
17 authority is hereby granted the Utilities Commission of North Carolina to fix and promulgate
18 service charges in addition to rates in any community which avails itself of this Article, and form
19 a corporation authorized hereunder to be known as electric membership corporation, and to order
20 line extensions when it shall determine that the same is proper and feasible."

21 **SECTION 18.1.(b)** G.S. 117-3.1 reads as rewritten:

22 "**§ 117-3.1. Regulatory fee.**

23 ...

24 (b) Rate. – For each fiscal year, ~~year in which the General Assembly does not establish a~~
25 rate, the regulatory fee shall be the greater of the following:

26 (1) ~~The rate established by the General Assembly for that year for each electric~~
27 ~~membership corporation's North Carolina meter connected for service and~~
28 ~~each telephone membership corporation's North Carolina access line~~
29 ~~connected for service for each quarter of the year.~~

30 (2) Four cents (4¢) rate proposed by the Authority in accordance with this
31 subsection, which shall not be more than six cents (6¢) for each electric
32 membership corporation's North Carolina meter connected for service and for
33 each telephone membership corporation's North Carolina access line
34 connected for service for each quarter of the year.

35 When the Authority prepares its budget request for the upcoming fiscal year, the Authority
36 shall propose a rate for the regulatory fee. For fiscal years beginning in an odd-numbered year,
37 that proposed rate shall be included in the budget message the Governor submits to the General
38 Assembly pursuant to G.S. 143C-3-5. For fiscal years beginning in an even-numbered year, that
39 proposed rate shall be included in a special budget message the Governor shall submit to the
40 General Assembly. ~~If the General Assembly decides to set the regulatory fee at a rate higher than~~
41 ~~the rate in subdivision (2) of this subsection, it shall set the regulatory fee by law.~~

42 The regulatory fee may not exceed the amount necessary to generate funds sufficient to defray
43 the estimated cost of the operations of the Authority for the upcoming fiscal year, including a
44 reasonable margin for a reserve fund. The amount of the reserve may not exceed the estimated
45 cost of operating the Authority for the upcoming fiscal year. In calculating the amount of the
46 reserve, the General Assembly shall consider all relevant factors that may affect the cost of
47 operating the Authority or a possible unanticipated increase or decrease in North Carolina electric
48 meters and North Carolina telephone access lines.

49"

50

1 **PART XVIII.A. AMEND ELIGIBILITY CRITERIA FOR ANIMAL WASTE**
2 **FERTILIZER CONVERSION COST-SHARE PROGRAM**

3 **SECTION 18.1A.** Section 10.4(e) of S.L. 2023-134 reads as rewritten:

4 **"SECTION 10.4.(e)** Definitions. – The following definitions apply in this section:

- 5 (1) Eligible entity. – Any person who owns or operates an anaerobic lagoon or
6 other liquid animal waste management system treating animal waste from a
7 livestock operation that generates sludge suitable for conversion into fertilizer
8 products-products, or any person converting sludge from an anaerobic lagoon
9 or other liquid animal waste management system treating animal waste from
10 a livestock operation into fertilizer products.
11 (2) Eligible project. – Costs associated with the site engineering, permitting,
12 acquisition, or installation of sludge collection and processing equipment
13 needed for production of fertilizers and other soil additives meeting applicable
14 State and federal requirements for use in agricultural operations.
15 (3) Foundation. – The NC Foundation for Soil and Water Conservation, Inc., a
16 nonprofit corporation.
17 (4) Livestock. – Cattle, sheep, swine, goats, farmed cervids, or bison.
18 (5) Person. – Any individual, trust, estate, partnership, receiver, association,
19 company, limited liability company, corporation, or other entity or group.
20 (6) Program. – The Animal Waste Fertilizer Conversion Cost-Share Program
21 created by this section."
22

23 **PART XVIII.II. MODERNIZE WASTEWATER PERMITTING TO SUPPORT**
24 **ENVIRONMENTALLY SOUND ECONOMIC DEVELOPMENT".**

25 **SECTION 18.2.(a)** The General Assembly finds all of the following:

- 26 (1) Residents of the State should be assured enjoyment of, and access to, proven
27 and reasonable methods of treating and disposing of wastewater that embrace
28 new technologies.
29 (2) As the State continues to grow and attract businesses, it is critical that
30 wastewater treatment and disposal facilities are provided for those businesses;
31 and adequate and affordable housing that is proximate to those businesses
32 must be available to assure the success of those businesses.
33 (3) Residents of the State should be assured treatment in an equitable manner to
34 their counterparts within other states comprising the United States
35 Environmental Protection Agency's (USEPA) Region 4 where permits are
36 authorized and issued for the discharge of treated wastewater from
37 municipalities, businesses, and developments to, for example, receiving
38 waters "in which natural flow is intermittent, or under certain circumstances
39 non-existent" (Alabama Admin. Code r. 335-6-10-.09).
40 (4) The discharge of treated wastewater to low flow or zero flow receiving waters
41 is of low risk to the environment, protects and improves water quality, and
42 provides the most prudent use of ratepayer funds.
43 (5) For all these reasons, it is necessary to establish methodologies and rules for
44 the discharge of treated domestic wastewaters with low risk following site
45 specific criteria to surface waters of the State, including wetlands, perennial
46 streams, and unnamed tributaries of named and classified streams and
47 intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow
48 of the receiving waters is estimated to be low flow or zero flow, as determined
49 by the United States Geological Survey (USGS).
50 (6) This act preserves and maintains the authority of the Department of
51 Environmental Quality (Department) for appropriate review, including

1 opportunities for public comment, and requires the Department and the
2 Environmental Management Commission (Commission) to seek necessary
3 approvals from USEPA to adopt temporary and permanent rules to authorize
4 discharges of wastewater to such receiving waters.

5 **SECTION 18.2.(b)** G.S. 143-215.1(c8) is repealed.

6 **SECTION 18.2.(c)** Section 12.9 of S.L. 2023-134 is repealed.

7 **SECTION 18.2.(d)** No later than August 1, 2024, the Department of Environmental
8 Quality (Department) and the Environmental Management Commission (Commission) shall
9 develop and submit to the United States Environmental Protection Agency for USEPA's approval
10 draft rules that establish methodologies and permitting requirements for the discharge of treated
11 domestic wastewaters with low risk following site-specific criteria to surface waters of the State,
12 including wetlands, perennial streams, and unnamed tributaries of named and classified streams
13 and intermittent streams or drainage courses where the 7Q10 flow or 30Q2 flow of the receiving
14 water is estimated to be low flow or zero flow, or under certain conditions non-existent, as
15 determined by the United States Geological Survey (USGS). Within 20 days of the date USEPA
16 approves the draft rules submitted pursuant to this subsection, the Commission shall initiate the
17 process for temporary and permanent rules pursuant to Chapter 150B of the General Statutes.
18 The draft rules submitted to USEPA for approval shall include all of the following:

19 (1) Defined terms. –

- 20 a. "Treated domestic wastewater" shall mean sewage and wastewater
21 comprised of waste and wastewater from household, commercial or
22 light industrial operations (e.g., homes, restaurants, car washes,
23 laundromats servicing only domestic laundry) excluding any industrial
24 process wastewater regulated by USEPA under the Categorical
25 Pretreatment Standards.
- 26 b. "Low-risk discharges" means discharges of 2 million gallons per day
27 or less of treated domestic wastewater when the dissolved oxygen
28 content (DO) of the effluent is significantly higher (1.5 mg/l or greater)
29 than the DO of the receiving water during low flow periods and the
30 biological oxygen demand content (BOD) of the effluent is
31 significantly lower (1.5 mg/l or more) than the DO of the effluent.
- 32 c. "Sag" means a reduction in the existing DO in the background surface
33 receiving water to which treated wastewater will be discharged. Sag is
34 typically related to nutrient elements within treated wastewater, which
35 may promote the growth of oxygen-consuming micro-organisms,
36 increasing the BOD, which at elevated levels may reduce DO in the
37 background surface water body.

38 (2) Criteria for permitting. –

- 39 a. Applicants shall be required to demonstrate, through an analysis
40 comparing the limits of the NPDES permit to the characteristics of the
41 receiving water, that a proposed discharge meets criteria for a low-risk
42 discharge as defined in this subsection. When a discharge is
43 determined to be low-risk, the applicant shall demonstrate using
44 simple modeling of the applicant's choosing, provided that the model
45 chosen is utilized elsewhere in USEPA Region 4, such as the
46 Streeter-Phelps model used in the State of Alabama, to show that the
47 Sag, if any, in the DO of the receiving water will not exceed 0.1mg/l.
- 48 b. Discharges to low flow or zero flow receiving waters shall be subject
49 to the following conditions:
- 50 1. The receiving waters fall within any of the following
51 categories:

- 1 I. The 7Q10 or 32Q2 flow statistics are estimated to be
- 2 zero by the USGS.
- 3 II. The drainage area of the discharge point is less than 5
- 4 square miles as specified by the USGS on-line tools or
- 5 other methodology that meets the standard of care for
- 6 such work.
- 7 III. The 7Q10 flow is estimated to be less than 1 cubic foot
- 8 per second by the USGS.
- 9 2. The proposed flow for any wastewater discharge shall be the
- 10 lesser of the following:
- 11 I. No more than one-tenth of the flow generated by the
- 12 one-year, 24-hour storm event given the drainage area
- 13 and calculated using the rational method. The rational
- 14 method shall be used to calculate the peak runoff for
- 15 the one-year, 24-hour precipitation event in cubic feet
- 16 per second. The peak runoff shall then be divided by 10
- 17 and multiplied by 646,272 to convert the result to
- 18 gallons per day of allowable discharge at the point
- 19 studied.
- 20 II. Two million gallons per day.
- 21 3. All discharges shall be directed to buffer systems that utilize
- 22 low-energy methodologies to function as a buffer between the
- 23 discharge and the receiving waters. Buffer systems shall
- 24 consist of one of the following:
- 25 I. High-rate infiltration basins that may include
- 26 engineered materials to achieve high rates of
- 27 infiltration, which engineered materials shall have an
- 28 ASTM gradation of a fine to coarse grain sand, and
- 29 angular to maintain structural integrity of the slope.
- 30 II. Constructed free-surface wetlands having a hydraulic
- 31 residence time of 14 days.
- 32 III. Other suitable technologies that provide a physical or
- 33 hydraulic residence time buffer, or both, between the
- 34 discharge and the receiving waters.
- 35 4. Discharge to areas that are 50 feet upland of the receiving
- 36 waters or wetlands at a non-erosive velocity equal to or less
- 37 than 2 feet per second through an appropriately designed
- 38 energy dissipater, or other applicable designs, that meet the
- 39 standard of practice for professional engineers for such
- 40 devices.
- 41 5. Utilize more than one outfall to the receiving stream so that no
- 42 one outfall exceeds 1 cubic foot per second based on the
- 43 average daily flow of the discharge. Discharges from buffer
- 44 systems shall be allowed to be placed at increments along a
- 45 stream or receiving waters at no less than 50 linear feet.
- 46 6. No discharge shall be permitted to classified shellfish waters
- 47 (SA), tidal waters (SC), water supply waters (WS), or
- 48 outstanding resource waters (ORW). Discharges to unnamed
- 49 tributaries of classified shellfish waters, however, shall be
- 50 authorized in compliance with requirements of this section and
- 51 only when a low-risk situation is present. Discharges to

- 1 nutrient sensitive waters (NSW) may require additional
2 modeling and allocation of flow and will be at the discretion of
3 the Department.
- 4 7. The following effluent limits shall generally apply except
5 where (i) the applicant and Department agree to more stringent
6 limits or (ii) complex modeling conducted pursuant to
7 sub-sub-subdivision 8. of this sub-subdivision demonstrates
8 that Sag in the DO content of the receiving water of 0.1 mg/l
9 or less will occur and water quality standards are protected:
- 10 I. Biological oxygen demand (BOD₅) shall not exceed 5.0
11 mg/l monthly average.
- 12 II. NH₃, 0.5 mg/l monthly average, 1.0 mg/l daily
13 maximum.
- 14 III. Total nitrogen shall not exceed 4.0 mg/l monthly
15 average.
- 16 IV. Total phosphorus, 1.0 mg/l monthly average, 2.0 mg/l
17 daily maximum.
- 18 V. Fecal coliforms, 14 colonies/100ml or less.
- 19 VI. Dissolved oxygen, 7.0 mg/l or greater.
- 20 VII. Total suspended solids, 5.0 mg/l monthly average,
21 8mg/l daily maximum.
- 22 VIII. Nitrate, 1.0 mg/l monthly average, 2.0 mg/l daily
23 maximum.
- 24 8. If an applicant proposes less stringent effluent limits than those
25 set forth in sub-sub-subdivision 7. of this sub-subdivision, the
26 applicant shall conduct more complex modeling using any
27 model accepted elsewhere in USEPA Region 4 that the
28 applicant elects to use to confirm that a Sag in the DO content
29 of the receiving water of 0.1 mg/l or less will occur and water
30 quality standards are protected.
- 31 9. The Department shall not require an applicant to obtain
32 mapping data from the USGS as part of an application. In lieu,
33 an engineer of record licensed in the State of North Carolina
34 may prepare required mapping utilizing either USGS maps or
35 other maps approved by the Department.
- 36 10. Within 30 days of the filing of an application for a wastewater
37 discharge subject to this section, the Department shall (i)
38 determine whether or not the application is complete and notify
39 the applicant accordingly and (ii) if the Department determines
40 an application is incomplete, specify all such deficiencies in
41 the notice to the applicant. The applicant may file an amended
42 application or supplemental information to cure the
43 deficiencies identified by the Department for the Department's
44 review. If the Department fails to issue a notice as to whether
45 or not the application is complete within the requisite 30-day
46 period, the application shall be deemed complete. Within 180
47 days of the filing of a completed application, the Commission
48 shall either grant or deny the permit. If the Commission fails
49 to act in the requisite time frame, ten percent (10%) of the
50 application fee shall be returned to the applicant for each
51 working day beyond the 180-day period.

1 **SECTION 18.2.(e)** No later than September 1, 2024, the Department in conjunction
2 with the North Carolina Collaboratory at the University of North Carolina at Chapel Hill
3 (Collaboratory) shall convene a Wastewater General Permit Working Group (Working Group)
4 consisting of Department and Collaboratory staff and a maximum of five consulting experts
5 appointed by the Director of the Collaboratory in the fields of environmental regulation,
6 wastewater regulation, water quality regulation, and wastewater treatment regulation, to develop
7 the draft rules for the implementation of a Wastewater Treatment and Discharge General Permit
8 process for the State. The Working Group shall report its findings to the Environmental Review
9 Commission no later than March 15, 2025. Following consideration by the Environmental
10 Review Commission, and after making any changes required by the Environmental Review
11 Commission, the Department shall develop and submit proposed rules to USEPA for its approval.
12 Within 20 days of the date USEPA approves the draft rules submitted pursuant to this subsection,
13 the Commission shall initiate the process for temporary and permanent rules pursuant to Chapter
14 150B of the General Statutes.

15 **SECTION 18.2.(f)** Beginning September 1, 2024, and quarterly thereafter until such
16 times as permanent rules as required by subsections (d) and (e) of this section have become
17 effective, the Department and the Environmental Management Commission shall report on their
18 activities to implement subsections (d) and (e) of this section to the Environmental Review
19 Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and
20 Economic Resources, the Senate Appropriations Committee on Agriculture, Natural and
21 Economic Resources, and the House of Representatives Appropriations Committee on
22 Agriculture and Natural and Economic Resources of the General Assembly.

23
24 **PART XIX. SEVERANCE CLAUSE AND EFFECTIVE DATE**

25 **SECTION 19.(a)** If any section or provision of this act is declared unconstitutional
26 or invalid by the courts, it does not affect the validity of this act as a whole or any part other than
27 the part so declared to be unconstitutional or invalid.

28 **SECTION 19.(b)** Except as otherwise provided, this act is effective when it becomes
29 law.