



2015-2016 General Assembly

HOUSE BILL 1030: 2016 Appropriations Act, Sec. 14.13: Development of New Comprehensive Nutrient Management Regulatory Framework

Committee:
Introduced by:
Analysis of: Sec. 14.13 of S.L. 2016-94

Date: August 17, 2016
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Legislative Analyst

OVERVIEW: *Sec 14.13 of S.L. 2016-94 establishes the following nutrient management policies:*

- *Terminates the Jordan Lake Nutrient Mitigation Demonstration Project (SolarBee Project).*
- *Directs the Chief Sustainability Officer at the University of North Carolina at Chapel Hill to designate an entity to oversee a continuing study and analysis of nutrient management strategies for Jordan Lake and Falls Lake.*
- *Directs the Environmental Management Commission to modify its schedule and process for review and readoption of the existing Jordan Lake rules and Falls Lake rules to take into account the results of the study of nutrient management strategies.*
- *Directs the Department of Environmental Quality (DEQ) to study alternative technologies for in situ approaches to nutrient management in Jordan Lake and Falls Lake.*
- *Provides that impervious surface added in a city or county within the Jordan Lake watershed after July 26, 2013, and prior to December 31, 2020, will not be counted as built-upon area for purposes of a city's or county's calculation of nutrient loading targets.*
- *Directs DEQ to study issues related to nutrient impact fees and other water quality impact mitigation programs in Jordan Lake and Falls Lake.*
- *Provides that the Jordan Lake rules with effective dates between July 1, 2016, and October 15, 2019, must not become effective and provides that the Falls Lake rules with effective dates between July 1, 2016, and October 15, 2022, must not become effective.*
- *Provides that stormwater treatment practices that have been approved by the Chesapeake Bay Commission for Total Maximum Daily Load (TMDL) compliance in the Chesapeake Bay watershed must be allowed for TMDL compliance in the Jordan Lake and Falls Lake watersheds.*

This section became effective July 1, 2016.

BILL ANALYSIS: Sec 14.13 of S.L. 2016-94 establishes the following nutrient management policies:

- Terminates the Jordan Lake Nutrient Mitigation Demonstration Project (SolarBee Project).
- Directs the Chief Sustainability Officer at the University of North Carolina at Chapel Hill to designate an entity to oversee a continuing study and analysis of nutrient management strategies, including in situ strategies, and compilation of existing water quality data specifically in the context of Jordan Lake and Falls Lake. The study will be supported with funds appropriated to

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the Board of Governors of The University of North Carolina in the sum of five hundred thousand dollars (\$500,000) for each of the fiscal years from 2016-2017 through 2021-2022. The results of the study of nutrient management strategies for Jordan Lake will be reported to the Environmental Review Commission, the Environmental Management Commission, and the Department of Environmental Quality as follows: interim updates no later than December 31 of 2016 and 2017 and a final report no later than December 31, 2018. The results of the study of nutrient management strategies for Falls Lake will be reported to the Environmental Review Commission, the Environmental Management Commission, and the Department of Environmental Quality as follows: interim updates no later than December 31 of 2019 and 2020 and a final report no later than December 31, 2021.

- Directs the Environmental Management Commission to modify its schedule and process for review and readoption of the existing Jordan Lake Water Supply Nutrient Strategy rules and Falls Lake Water Supply Nutrient Strategy rules to take into account the results of the study of nutrient management strategies required by this section and to hold public hearings and convene stakeholder groups on the review and readoption of the rules. The Environmental Management Commission will begin readoption of the rules no later than March 15, 2019.
- Directs the Department of Environmental Quality to study alternative technologies for in situ approaches to nutrient management in Jordan Lake and Falls Lake. This study will be supported with funds appropriated to the Department of Environmental Quality in the sum of one million three hundred thousand dollars (\$1,300,000) for the 2016-2017 fiscal year. The Department will submit an interim report no later than March 1, 2017, and a final report no later than March 1, 2018, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division. If the Department finds any of these strategies to be effective, it will incorporate them into the readopted Jordan Lake Water Supply Nutrient Strategy rules and Falls Lake Water Supply Nutrient Strategy rules.
- Provides that impervious surface added in a city or county within the Jordan Lake watershed after July 26, 2013, and prior to December 31, 2020, will not be counted as built upon area for purposes of a city's or county's calculation of nutrient loading targets under 15A NCAC 2B .0265 (Stormwater Management for New Development) or 15A NCAC 2B .0266 (Stormwater Management for Existing Development), or equivalent or more stringent ordinance, code, standard, or committed element related to nutrient loading targets in the Jordan Lake watershed.
- Provides that cities and counties will not enforce 15A NCAC 2B .0265 (Stormwater Management for New Development) or 15A NCAC 2B .0266 (Stormwater Management for Existing Development), or equivalent or more stringent ordinance, code, standard, or committed element related to nutrient loading targets in the Jordan Lake watershed through any ordinance, code, standard, committed element, condition, or contractual obligation imposed by, agreed upon, or accepted by a county or city.
- Directs the Department of Environmental Quality to study the following issues related to nutrient impact fees and other water quality impact mitigation programs in Jordan Lake and Falls Lake:
 - The impact, costs, and benefits of setting nutrient offset fees on a subbasin or area specific basis, together with an estimate of the subbasin specific nutrient offset fees for each subbasin in the Jordan Lake and Falls Lake watersheds or area draining to a particular arm of Jordan Lake or Falls Lake.

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- Watersheds and river basins or subbasins where private providers of mitigation services are adequately serving existing and projected demand over the next five years, and whether (i) the continuing provision of mitigation services by the State in those areas is necessary and (ii) statutory authority to provide mitigation services in those areas should be totally or partially repealed.
- The Department will report the results of the studies no later than December 1, 2016, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division.
- Provides that the Jordan Lake Water Supply Nutrient Strategy rules with effective dates between July 1, 2016 and October 15, 2019 shall not become effective and provides that the Falls Lake Water Supply Nutrient Strategy rules with effective dates between July 1, 2016 and October 15, 2022 shall not become effective.
- Provides that stormwater treatment practices that have been approved by the Chesapeake Bay Commission for TMDL (Total Maximum Daily Load) compliance in the Chesapeake Bay watershed shall be allowed for TMDL compliance in the Jordan Lake and Falls Lake watersheds at the same pollutant removal efficiency value established for each such practice for the Chesapeake Bay watershed. The Department of Environmental Quality will report no later than December 1, 2016, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the need and desirability of establishing State specific pollutant removal efficiency values for the stormwater treatment practices. If the Department decides to establish State specific values, it shall incorporate those values into the readopted Jordan Lake Water Supply Nutrient Strategy rules and Falls Lake Water Supply Nutrient Strategy rules.

EFFECTIVE DATE: This section became effective July 1, 2016.