



# HOUSE BILL 169: Regulatory Reduction Act of 2016.

**This Bill Analysis  
reflects the  
contents of the bill  
as it was presented  
in committee.**

2016-2017 General Assembly

<b>Committee:</b>	Senate Commerce	<b>Date:</b>	May 25, 2016
<b>Introduced by:</b>		<b>Prepared by:</b>	Jeff Hudson, Jennifer McGinnis, Jennifer Mundt, Chris Saunders, and Layla Cummings, Legislative Staff
<b>Analysis of:</b>	PCS to Third Edition H169-CSSB-21		

**SUMMARY:** *The Proposed Committee Substitute for House Bill 169 would amend a number State laws related to business regulation; State and local government regulation; and agricultural, energy, environmental, and natural resources regulation*

## BILL ANALYSIS:

### PART I. ADMINISTRATIVE REFORMS

#### RESTRICTIONS ON RULES WITH SUBSTANTIAL FINANCIAL COSTS

**SECTION 1.1.** would place the following restrictions on rules that would have a substantial projected financial cost:

- Prohibit an agency from adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than one hundred million dollars during any five-year period.
- Place the following requirements on an agency adopting a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.
  - If the agency is a board or commission, the rule or set of rules must be approved by at least sixty percent of those voting.
  - If the agency is headed by a member of the Council of State, the Council of State member must sign a certification indicating the review and support of the rule or set of rules.
  - For other agencies, the Governor must sign a certification indicating the review and support of the rule or set of rules.
- Provide that a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period is automatically subject to legislative review as if ten letters of objection had been received.

**SECTION 1.2.** would prohibit an agency from incorporating all or part of a code, standard, or regulation adopted by the federal government, unless the agency establishes a procedure by which any change by the federal government is reviewed and approved by the agency within 30 days of the change.

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**SECTION 1.3.** would provide that rules adopted by an agency authorized to implement and enforce State and federal environmental laws that impose a more restrictive standard, limitation, or requirement than imposed by federal law and that are adopted to address a serious and unforeseen threat to public health, safety, or welfare are subject to the same limitations and legislative review requirements set out in Section 1.1 of the PCS that apply to a rule or set of rules with a projected aggregate financial cost equal to or greater than ten million dollars during any five-year period.

**SECTION 1.4.** would make clarifying and organizational changes to two sections of the statute governing the periodic review and expiration of rules process.

**SECTION 1.5.** would provide that the requirements of Sections 1.1, 1.3, and 1.4 of the PCS apply to rules adopted or undergoing the periodic review and expiration of rules process on or after that date.

## **PART II. BUSINESS REGULATION**

### **EXEMPT CERTAIN BUILDING CODE CLASSIFICATIONS FROM ENERGY EFFICIENCY STANDARDS**

**Section 2.1.** would require the Building Code Council to exempt the following use and occupancy classifications from the requirements of the Energy Conservation Code: Factory Group F, Storage Group S, and Utility and Miscellaneous Group U.

### **STREAMLINE MORTGAGE NOTICE REQUIREMENTS**

**Section 2.2.** would remove a duplicative notice requirement required to be made by a servicer of a home loan. The statement mailing requirement and borrower notification requirement are satisfied when the person complies with the federal disclosure requirements.

### **AUTHORIZE NORTH CAROLINA DISTILLERIES TO BETTER COMPETE NATIONALLY AND INTERNATIONALLY**

**Section 2.3.(a)** would authorize the holder of a distillery permit to sell spirituous liquor in closed containers, at wholesale or retail, for delivery outside the State. When sold for delivery outside the State, the retail price would be the distiller's price, and would not include the additional markups and charges that make up the uniform State price for spirituous liquor. This section would also direct the Alcoholic Beverage Control Commission to adopt rules consistent with this section.

This section would become effective July 1, 2016.

## **PART III. STATE AND LOCAL GOVERNMENT REGULATION**

### **DIRECT THE MEDICAL CARE COMMISSION TO ADOPT THE RECOMMENDATIONS OF THE AMERICAN SOCIETY OF HEALTHCARE ENGINEERS FACILITY GUIDELINES INSTITUTE**

**Sections 3.1.(a) through 3.1.(e)** would:

- Direct the Medical Care Commission to repeal a suite of rules that regulate licensing of hospitals pertaining to physical plant, general requirements, and construction requirements (Hospital Facilities Rules) by December 31, 2016, and to replace those particular rules with temporary (and subsequently permanent) rules by incorporating, by reference, all the applicable standards, rules, and requirements of the most current edition of the American Society for Healthcare

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Engineering's Facility Guidelines Institute *Guidelines for Design and Construction of Hospitals and Outpatient Facilities* (Guidelines).

- Provide that the rules adopted to replace the Hospital Facilities Rules with the Guidelines would be exempt from the provisions of the Administrative Procedure Act (Act) under Chapter 150B of the General Statutes that require the preparation of fiscal notes.
- Provide that until the Hospital Facilities Rules are repealed and replaced by the Guidelines, the Hospital Facilities Rules would not be subject to the statutory periodic rules review required by the Act.

## **ELIMINATE EFFICIENCY STANDARDS HAVING BEEN MET OR EXCEEDED BY STATE BUILDINGS**

**Section 3.2.(a)** would repeal G.S. 143-64.12 that:

- Directs the State Energy Office of the Department of Environmental Quality to develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning.
- Directs the Department of Administration (Department) to develop and implement policies to ensure that State purchasing practices improve efficiency regarding energy, water, and other utility use and take the cost of the product over the economic life of the product into consideration.
- Requires the Department to conduct an energy audit of each State agency or State institutions of higher learning once every 5 years.

**Section 3.2.(b)** would make a conforming change.

## **REPEAL CERTAIN EDUCATIONAL TESTING LAWS**

**Section 3.3.** would remove a provision from an education testing statute that encourages local administrative units to continue to develop local testing programs designed to diagnose student needs.

## **PART IV. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION**

### **REPEAL RECYCLING REQUIREMENTS FOR DISCARDED COMPUTER EQUIPMENT AND TELEVISIONS**

**Section 4.1.(a)** would repeal requirements for computer and television manufacturers to collect and recycle their products discarded by consumers in the State.

**Section 4.1.(b)** would repeal a ban on disposal of computers in landfills.

**Section 4.1.(c)** would repeal a ban on disposal of televisions in landfills.

**Section 4.1.(d)** would repeal a ban on disposal of computers by incineration in an incinerator for which a solid waste permit is required.

**Section 4.1.(e)** would repeal a ban on disposal of televisions by incineration in an incinerator for which a solid waste permit is required.

**Section 4.1.(f)** would repeal a reporting requirement for local governments regarding permanent recycling programs for discarded computer equipment and televisions.

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## **REPEAL YARD WASTE PERMITTING REQUIREMENTS**

**Section 4.2.(a)** would define "yard waste" as land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash, including brush, grass, tree limbs, and similar vegetative material.

**Section 4.2.(b)** would provide that yard waste diverted from the waste stream or collected as source separated material would not be subject to a solid waste permit for transfer, treatment, processing, storage, or disposal in a permitted solid waste management facility. The provision, however, would not limit the authority of any local government to manage yard waste. Yard waste as defined under the PCS would include land-clearing debris, including stumps, limbs, leaves, grass, and untreated wood, and yard trash including brush, grass, tree limbs, and similar vegetative material.

Pursuant to provisions in the Administrative Code, facilities that accept yard waste could, depending on the type and amount of material accepted and the size of the facility, be required to obtain a solid waste permit for a treatment and processing facility, a land clearing and inert debris landfill, or could be required to file a Yard Waste Notification.

**Section 4.2.(c)** would provide that the section becomes effective July 1, 2017, and would apply to the transfer, treatment, processing, storage, or disposal of yard waste occurring on or after that date.

## **ELIMINATE OUTDATED PROVISIONS OF THE COASTAL AREA MANAGEMENT ACT**

**Section 4.3.(a)** would repeal the statute that originally required coastal counties to develop a land-use plan or directed the Coastal Resources Commission to prepare and adopt a land-use plan for a county that failed to do so.

**Section 4.3.(b)** would repeal a conforming statute that authorizes the Secretary of Environmental Quality to make grants to local government units to assist in the development of local plans.

## **REPEAL PASTURE POINTS PROVISION**

**Section 4.4.** would repeal a 2001 provision that directed the Soil and Water Conservation Commission to approve a point system applicable to pasture management practices no later than September 1, 2002. The point system was never implemented.

## **REPEAL RESTRICTION ON PET TURTLE SALES**

**Section 4.5.** would direct the Commission for Public Health to repeal two rules prohibiting the sale of all turtles for purposes other than scientific, educational, or food purposes. The Food and Drug Administration prohibits the sale of turtles with a carapace length of less than four inches as pets (21 C.F.R. 1240.62).

## **PART V. ELIMINATE, CONSOLIDATE, AND AMEND REPORTS TO THE ENVIRONMENTAL REVIEW COMMISSION**

**Sections 5.1 through 5.10** would eliminate the following reports:

- Cost of implementing the Mining Act of 1971 by the Department of Environmental Quality (DEQ).

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- The implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA).
- Systemwide municipal and domestic wastewater collection system permit program by the Environmental Management Commission (EMC).
- Reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT).
- Purchase of new motor vehicles and fuel savings by DOA.
- State of the Environment Report by DEQ.
- Fish kill activity by DEQ.
- Developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC.
- Implementation of the North Carolina Beach and Inlet Management Plan by DEQ.
- Informal review process for agency review of engineering work.

**Sections 5.11 through 5.18** would make consolidate and make other changes to the following reports:

- The Coastal Resources Commission, EMC, and Marine Fisheries Commission report on progress in developing and implementing the Coastal Habitat Protection Plans would be consolidated with the report requiring DEQ to report on any significant changes in the Plans.
- DEQ's report on the cost of the State's environmental permitting programs would be consolidated with the report on the time required to process all permit applications in the One-Stop for Certain Environmental Permits Programs. The annual reports would become due biennially with the first combined report due no later than January 1, 2017.
- The EMC's report on permits and renewals for facilities discharging to surface waters would be consolidated with the report on the operation and activities of the Commission. The quarterly reports would become due annually with the first combined report due no later than January 1, 2017.
- DEQ's report on the status of solid waste management would be consolidated with the reports on recycling of computer equipment and televisions, the Brownfields Property Reuse Act, the Inactive Hazardous Waste Response Act of 1987, the Dry-Cleaning Solvent Cleanup Act of 1997, and the implementation and cost of the hazardous waste management program. The combined report would be due annually with the first report due no later than January 15, 2017.
- DEQ's report on the Sedimentation Pollution Control Act of 1973 would be consolidated with EMC's report on stormwater control. The first annual combined report would be due no later than October 1, 2016.
- DEQ's reports on the development of the State water supply plan and the development of basinwide hydrological models would be consolidated with the report on basinwide water quality management submitted by the EMC and DEQ. The first annual combined report would be due no later than November 1, 2016.
- DEQ's report on accounts in the Water Infrastructure Fund would be consolidated with the State Water Infrastructure Authority's reports of its activity and findings. The first annual combined

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report would be due no later than October 1, 2016 and the combined report would also be received by the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division.

- The Soil and Water Conservation Commission's reports on the Agriculture Cost Share Program for Nonpoint Source Pollution Control Program and the Community Conservation and Assistance Program would be consolidated with the comprehensive report on the Agricultural Water Resources Assistance Program by the Division of Soil and Water Conservation of the Department of Agriculture and Consumer Services. The first annual combined report would be due no later than January 31, 2017.

**Sections 5.19 through 5.23** would make the following changes to reports:

- Decrease reporting frequency on the terminal groins pilot project by the Coastal Resources Commission from annually to every 5 years.
- Decrease reporting frequency on the parks system plan by the Department of Natural and Cultural Resources from annually to every five years and add the ANER Oversight Committee as a recipient of the report.
- Redirect interagency report on superfund cost share to the ANER Oversight Committee.
- Redirect reports on expenditures from the Bernard Allen Emergency Drinking Water Fund to the ANER Oversight Committee.
- Redirect report on the Parks and Recreation Trust Fund to the ANER Oversight Committee.

## **PART VI. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**Section 6.1.** would add a severability clause to the bill.

**Section 6.2.** would provide that the bill would be effective when it becomes law, except as otherwise specified.