



HOUSE BILL 593: Amend Environmental & Other Laws.

2016-2017 General Assembly

Committee: Senate Finance
Introduced by:
Analysis of: Third Edition

Date: June 20, 2016
Prepared by: Jeff Hudson,
Erika Churchill,
Jennifer McGinnis,
Jennifer Mundt,
Chris Saunders, and
Layla Cummings,
Legislative Staff

SUMMARY: *House Bill 593 would amend a number of State laws related to environmental, natural resources, and other regulations.*

BILL ANALYSIS:

PROHIBIT CERTAIN STORMWATER CONTROL MEASURES

Section 1 would prohibit the Director of the Division of Water Resources in the Department of Environmental Quality (DEQ) from requiring the use of on-site stormwater control measures to protect downstream water quality standards unless required to do so by State or federal law.

EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS

Section 2 would exempt from the definition of built-upon area for purposes of implementing stormwater programs, landscaping material, including but not limited to gravel, mulch, sand, and vegetation, placed on areas that receive pedestrian or bicycle traffic or on portions of driveways and parking areas that will not receive the full weight of vehicular traffic. Section 2 would also allow the owner or developer of property to opt out of any of the exemptions from built-upon area.

STORMWATER CONTROL SYSTEM DESIGN REGULATION

Section 3 would amend the statutes governing fast-track permitting for stormwater management to direct the Environmental Management Commission to revise its rules, by July 1, 2017, to include the following licensed professionals as qualified to prepare a stormwater management system permit without a technical review, so long as the application complies with the Minimum Design Criteria:

- Landscape architects.
- Professional engineers.
- Geologists.
- Soil scientists.
- Any other licensed professional that the EMC deems appropriate.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

House Bill 593

Page 2

AMEND STREAM MITIGATION REQUIREMENTS

Section 4 would direct the Environmental Management Commission to amend its rules so that mitigation is not required for losses of 300 linear feet or less of stream bed; for losses of more than 300 linear feet of stream bed, mitigation shall not be required for 300 linear feet of those losses; and a lower mitigation threshold may be applied in the case of a legally binding federal policy. Section 4 would also direct DEQ to submit comments to the United States Army Corps of Engineers in support of the Corps increasing the threshold for mitigation from 150 linear feet to 300 linear feet.

COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES

Section 5 would repeal a directive in the 2015 Appropriations Act that required the Coastal Resources Commission (CRC) to adopt updated rules for the use of sandbags by December 2015. The updated rules were approved at the May 2016 meeting of the CRC. This section would direct the CRC to adopt those rules as temporary rules.

DIRECT THE COASTAL RESOURCES COMMISSION TO AMEND THE SEDIMENT CRITERIA RULE TO EXEMPT SEDIMENT FROM CAPE SHOAL SYSTEMS

Section 6 would direct the CRC to amend the sediment criteria rule to allow sand from the cape shoals to be used as ocean beach nourishment without undergoing permitting requirements. Sand used for beach nourishment must be similar in quality and grain size as the area being nourished and the rule requires sediment samples to be taken from both the borrow site and recipient beach to determine if the sediment source is compatible.

DIVISION OF COASTAL MANAGEMENT TO STUDY CURRENT LONG-TERM EROSION RATES ADJACENT TO TERMINAL GROINS

Section 7 would direct the Division of Coastal Management in DEQ, in consultation with the CRC, to study whether the long-term erosion rates should be modified in and around newly constructed terminal groins. Long-term erosion rates are evaluated by the Division about every five years and are used to determine setbacks for oceanfront development.

SOLID WASTE AMENDMENTS

Sections 8 and 9 would: (i) make technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations; (ii) provide that franchise agreements previously executed by local governments for sanitary landfills may be modified by agreement of all parties to a valid and operative franchise to last for a landfill's life-of-site; and (iii) provide that no franchise agreement for a sanitary landfill, modified or newly executed, shall exceed a duration of 60 years.

Section 10 would require the Division of Waste Management in DEQ to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The Department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by December 31, 2016.

Section 11 would modify the statute governing permitting authority of DEQ over establishment and operation of solid waste management facilities to require the Department to approve aerosolization as an acceptable method of disposal for leachate wastewater collected from a sanitary landfill. In addition, this section would provide that aerosolization of leachate or wastewater that results in effluent free-production or a zero liquid discharge does not constitute a discharge that requires a permit under the air or water permitting statutes.

House Bill 593

Page 3

Section 12 would provide that Sections 8 and 9 would be effective retroactively to July 1, 2015, and that Sections 10 and 11 would become effective when the act becomes law.

FARRIERS/HORSESHOEING

Section 13 would clarify that a farrier or any person engaged in the activity or profession of shoeing hooved animals does not require a license from the North Carolina Veterinary Medical Board, provided that the person's actions are limited to shoeing hooved animals or trimming, clipping, or maintaining hooves.

WILDLIFE RESOURCES COMMISSION, DIVISION OF MARINE FISHERIES, AND UTILITIES COMMISSION PRIVATE IDENTIFYING INFORMATION

Section 14 would, effective October 1, 2016, provide that customer e-mail addresses received, and customer identification numbers issued, by the Wildlife Resources Commission (WRC) and the Marine Fisheries Commission are considered "identifying information" and may not be made available to the public. This section would also provide that any customer's name, physical address, email address, telephone number, or public utility account number received by the Public Staff of the Utilities Commission is not a public record, and may only be disclosed for the purpose of investigating a complaint against a public utility by the customer.

REGULATION AND DISPOSITION OF CERTAIN REPTILES

Section 15.(a) would provide that if the North Carolina Museum of Natural Sciences (Museum) or the North Carolina Zoological Park (Zoo) finds that a seized illegally-owned reptile is a venomous reptile, large constricting snake, or a regulated crocodylian, the Museum or the Zoo must determine the interim disposition of the seized reptile until a final disposition is determined by a court. The Museum or Zoo are not liable to the owner of the reptile if the Museum or Zoo determines euthanasia to be the appropriate interim disposition, or if the seized reptile dies of natural or unintended causes. Upon conviction of any violation of Article 55 of Chapter 14 of the General Statutes (Regulation of Venomous Reptiles), the court shall issue a final disposition of the confiscated reptiles, which may include transfer of title to the State of North Carolina and reimbursement for the cost of seizure, delivery, and storage of the reptiles. This section would also authorize law enforcement officers or animal control officers to kill a dangerous reptile if the officer determines that there is an immediate threat to public safety.

Section 15.(b) would direct the Department of Natural and Cultural Resources (DNCR) and WRC to study and develop a list of potential designated representatives for the storage and safekeeping of venomous reptiles, large constricting snakes, or crocodylians.

Section 15.(c) would direct DNCR and WRC to study and make recommendations to the ERC by December 1, 2016, on potential procedural and policy changes to improve the regulation of dangerous reptiles.

PROVIDE FOR LOW-FLOW DESIGN ALTERNATIVES FOR PUBLIC WATER SUPPLY SYSTEMS

Section 16 would amend the North Carolina Administrative Code to exempt a public water supply system from the Daily Flow Requirements as provided by Table No. 1 of 15A NCAC 18C .0409(b)(1), provided the flow rates and yields that are less than those required by the rule are (i) achieved through an engineering design that utilizes low-flow fixtures and low-flow reduction technologies and the design is prepared, sealed, and signed by a professional engineer licensed pursuant to Chapter 89C of the General Statutes and (ii) provide for a flow that is sufficient to sustain the water usage required in the engineering design.

House Bill 593

Page 4

CERTAIN AGREEMENT TERMS FOR AGRICULTURAL EMPLOYER'S STATUS DECLARED INVALID

Section 17 would provide that any provision that directly or indirectly conditions the terms of an agreement not to sue or to settle pending litigation upon an agricultural producer's status as a union or nonunion employer or entry into or refusal to enter into an agreement with a labor union or labor organization is invalid and unenforceable.

COPIES OF CERTAIN PUBLIC RECORDS

Section 18 would, effective July 1, 2016, provide that a public agency that makes its public records and computer databases available online, in a format that is downloadable, satisfies the requirement to allow persons access to public records, and is not required to provide copies through any other method or medium. That public agency may, but is not required to, provide copies by another method or in another medium and may negotiate a charge for that service if they so opt.

PROHIBIT CITIES FROM CHARGING FEES FOR UTILITY USE OF RIGHT-OF-WAY

Section 19 would prohibit a city from imposing a fee on gas, telecommunications, electricity, or video programming utilities for activities conducted in a right-of-way, unless the costs for those activities exceeds the amount the city has collected for sales and use tax.

ALLOW THE FEDERAL GOVERNMENT TO PUMP STANDING STORMWATER FROM FEDERAL LANDS INTO THE OCEAN

Section 20 would provide that except that as required by federal law, no State agency or unit of local government may prohibit a unit of the federal government from pumping standing stormwater from federal land into the ocean.

DELAY INSURANCE FOR MOPED OWNERS

Section 21 would delay the effective date of provisions enacted in 2015 requiring that mopeds be insured, from July 1, 2016, to July 1, 2017, and would direct the Department of Insurance to review which insurance companies provide moped liability insurance, including the typical costs and requirements that must be met by a moped owner in order to obtain moped liability insurance.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 22 contains a severability clause.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.