



SENATE BILL 303: Regulatory Reform Act of 2016.

2016-2017 General Assembly

Committee:
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SUMMARY: *Senate Bill 303 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. BUSINESS REGULATION

EMPLOYMENT STATUS OF FRANCHISES

Section 1.1. would clarify that a franchisor is not the employer of a franchisee or employees of a franchisee for employment law claims under State law. The clarifying language is in response to a decision by the National Labor Relations Board, *Browning-Ferris Industries v. Leadpoint* (2015), which revised the standard for determining joint-employer status under federal law.

PART II. STATE AND LOCAL GOVERNMENT REGULATION

PERSONALLY IDENTIFIABLE INFORMATION OF PUBLIC UTILITY CUSTOMERS

Section 2.1. would provide that personally identifiable information obtained by the Public Staff of the Utilities Commission from customers who request assistance from the Public Staff regarding rate or service disputes with public utilities is not a public record. This section would define "personally identifiable information" to mean: the customer's name, physical address, email address, telephone number, and public utility account number. Such information would be a public record to the extent it is made public by the customer in a complaint filed by the Commission.

WATER AND SEWER BILLING BY LESSORS

Section 2.2. would allow lessors of single family rental units that are not contiguous to pass through charges for water and sewer utility service to tenants. The provision would also direct the Utilities Commission to develop an application that lessors must complete, and will allow lessors to submit one

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application for the authority to charge for water and sewer service for multiple homes with a single Commission approval.

CLARIFY RECYCLING PROGRAMS BY LOCAL SCHOOL BOARDS MUST COMPLY WITH G.S. 160A-327

Section 2.3. would add a statutory reference to the requirements for displacing a recycling program contractor in the statute requiring local boards of education to encourage recycling and authorizing those boards to adopt recycling programs.

REZONING/SIMULTANEOUS COMPREHENSIVE PLAN AMENDMENT

Section 2.4. would, effective October 1, 2016, require counties and cities to treat an affirmative vote to amend a zoning ordinance as a simultaneous amendment to the comprehensive plan and the unified development ordinance, if the requested zoning amendment for a particular parcel is not in conformity with the comprehensive plan. The change would be for that particular parcel or tract described in the zoning amendment only.

PARENT PARCEL/SUBDIVISION CLARIFICATION

Section 2.5. would, with respect to subdivision regulation by counties and cities on or after October 1, 2016, do the following:

- Except from subdivision regulation the division of a tract into parcels as specified in a will or intestate succession.
- Provide that a plat may be required, but nothing else, for the division of a single tract of land greater than five acres in size, no part of which has been divided in the past 10 years, into no more than three lots comply with the lot use and dimension size requirements of the applicable land use regulations and a permanent means of ingress and egress is recorded for each lot.

STATUTE OF LIMITATIONS/LAND USE VIOLATIONS

Section 2.6. would provide a three year statute of limitations, and a six year bar on bringing actions, for a unit of local government to institute an action for a violation of a land use statute, ordinance, permit, or other official action concerning land use carrying the effect of law. This section would become effective August 1, 2016, and applies to actions commenced on or after that date.

PROGRAM EVALUATION TO STUDY NONPROFIT CONTRACTING

Section 2.7. would authorize the Joint Legislative Program Evaluation Oversight Committee to amend the 2016-2017 Program Evaluation Division work plan to direct the Division to study State law and internal agency policies and procedures for delivery of public services through State grants and contracts to non-profit organizations. If the study is conducted, the Division will submit a report on the results of the study to the Joint Legislative Program Evaluation Oversight Committee and the Joint Legislative Commission on Governmental Operations by September 1, 2017. This section would become effective July 1, 2016.

CLARIFY REQUIREMENTS FOR INITIAL LICENSURE AS A PROFESSIONAL ENGINEER

Section 2.8. would rewrite the provision related to licensure as a professional engineer to clarify the requirements and also provides that an applicant for a professional engineer's license must meet stated requirements for education, examination, and experience, in no particular order. The section would also clarify that the process for obtaining an engineer intern certificate and retain the existing authority for licensure by comity, long-established practice, faculty members, and doctors of engineering. The section would become effective October 1, 2016.

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RENAME AND AMEND THE BOARD OF REFRIGERATION EXAMINERS

Section 2.9. would, effective January 1, 2017, rename the State Board of Refrigeration Examiners the State Board of Commercial Refrigeration Examiners and make other changes to the refrigeration contractor licensing statutes as follows:

- Explicitly specifies different classes of refrigeration contracting and licenses, including licenses for commercial refrigeration contracting; industrial refrigeration contracting; repair, maintenance, and servicing of commercial equipment; and transport refrigeration contracting.
- Increases the cap on the examination fee from \$40 to \$100.
- Increases the cap on the renewal fee from \$40 to \$80.
- Increases the cap on the late renewal fee from \$75 to \$160.

AMEND DEFINITION OF ANTIQUE AUTOMOBILE

Section 2.10. would amend the definition of antique automobile in the tax statutes to provide that an antique automobile may be owned by an individual directly or indirectly through one or more pass through entities. Under current law, an antique automobile is owned by an individual.

COPIES OF CERTAIN PUBLIC RECORDS

Section 2.11. 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.

SPECIFY LOCATION OF LIEUTENANT GOVERNOR'S OFFICE

Section 2.12. would provide that the Lieutenant Governor's office would be located in the Hawkins-Hartness House located at 310 North Blount Street in Raleigh. Current law provides that the Lieutenant Governor's office is located in Raleigh.

CLARIFY THAT DOT STORMWATER REQUIREMENTS ARE APPLICABLE TO STATE ROAD CONSTRUCTION UNDERTAKEN BY PRIVATE PARTIES

Section 2.14. would provide that certain construction undertaken by a private party be considered to have been undertaken by the Department of Transportation, and as such, the stormwater law applicable to the Department would apply to that construction.

DOT/PERMIT PROCESS REVISIONS & REIMBURSEMENT FOR MOVING CERTAIN UTILITIES

Section 2.16. would provide that applications for permits issued by the Department of Transportation may be submitted electronically. Section 2.16 would also provide that when the Department of Transportation requires the relocation of utilities, including cable service, located in a right-of-way for which the utility owner contributed to the cost of acquisition, the Department must reimburse the utility owner for the cost of relocation.

AMENDMENTS TO GENERAL CONTRACTOR LICENSURE

Section 2.17. would make technical and clarifying changes to the statutes governing licensure of general contractors. This section would become effective January 1, 2017, and apply to applications submitted on or after that date.

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PART III. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES REGULATION

DIRECT DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES TO INSPECT RENDERING PLANT

Section 3.1. would repeal the existing rendering plant inspection committee, which is composed of an employee of the Department of Agriculture and Consumer Services, an employee of the Department of Health and Human Services, and a person having practical knowledge of rendering operations, and instead direct the Commissioner of Agriculture, or the Commissioner's designee, to inspect rendering operations.

SOLID WASTE AMENDMENTS

Sections 3.3. through 3.4. would: (1) make technical, clarifying, and conforming changes to provisions enacted in 2015 to establish life-of-site permits for sanitary landfills and transfer stations; (2) 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 (3) provide that no franchise agreement for a sanitary landfill, modified or newly executed, shall exceed a duration of 60 years.

REQUIRE STUDY OF THE ROLE OF THE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS IN EVALUATION OF MILITARY-RELATED PERMIT CRITERIA FOR PERMITTING WIND ENERGY FACILITIES

Sections 3.6. would direct the Department of Environmental Quality and the Department of Military and Veterans Affairs to jointly study the appropriate role of the Department of Military and Veterans Affairs with regard to evaluation of military related criteria for permitting wind energy facilities. The Departments will issue a joint report, including any findings and recommendations for legislative action, to the Environmental Review Commission and the North Carolina Military Affairs Commission no later than December 1, 2016.

DEQ TO STUDY RIPARIAN BUFFERS FOR INTERMITTENT STREAMS

Section 3.9. would direct the Department of Environmental Quality (DEQ) to study:

- Whether the size of riparian buffers required for intermittent streams should be adjusted and whether the allowable activities within the buffers should be modified.
- Under what circumstances units of local government should be allowed to exceed riparian buffer requirements mandated by the State and the federal government.

DEQ would report the results of the study to the Environmental Review Commission by December 1, 2016.

TRANSFER OF CERTAIN CONSERVATION EASEMENTS

Section 3.10. would provide that when a recipient of funds from the Ecosystem Restoration Fund acquires a conservation easement as part of a restoration project for the Division of Mitigation Services, the recipient may, upon approval by the Department of Environmental Quality, transfer the conservation easement to another age governmental agency or third party.

PART IV. ELIMINATE AND CONSOLIDATE REPORTS

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Sections 4.1 through 4.24 would eliminate, consolidate, and make other changes to various environmental and natural resources reports.

Sections 4.1. through 4.9. would eliminate:

- The report on the cost of implementing the Mining Act of 1971 by the Department of Environmental Quality (DEQ).
- The report on the implementation of the sustainable energy efficient buildings program by the Department of Administration (DOA). (Two separate reports eliminated)
- The report on systemwide municipal and domestic wastewater collection system permit program by the Environmental Management Commission (EMC).
- The report on reducing vehicle emissions from state employee and private sector vehicles by the Department of Transportation (DOT). (Two separate reports eliminated)
- The report on the number of new motor vehicles purchased and fuel savings by DOA.
- The biennial report on the state of the environment by DEQ.
- The report on progress towards developing engineering standards governing municipal and domestic systems to allow regional interconnection by the EMC.
- The report on the implementation of the State beach and inlet management plan by DEQ.

Sections 4.11. through 4.18. would consolidate and amend reports as follows:

- The Coastal Resources Commission (CRC), EMC, and Marine Fisheries Commission annual report on progress in developing and implementing the Coastal Habitat Protection Plans would be amended to provide that the reports are only required by September 1 of the each year in which any significant revisions to the Plans are made.
- DEQ's annual 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 and the Express Permit Certification Reviews. The combined annual report would be due biennially and the first report must be submitted by January 1, 2017.
- EMC's quarterly 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 combined report would be due annually and the first report must be submitted by January 1, 2017.
- DEQ's annual reports on: (i) recycling discarded computer equipment and televisions, (ii) the Brownfields Property Reuse Act, (iii) the Inactive Hazardous Waste Response Act of 1987, (iv) the Dry-Cleaning Solvent Cleanup Act of 1997, and (v) the implementation and cost of the hazardous waste management program would be consolidated with the Department's annual solid waste management report. The combined report would be due annually and the first report must be submitted by January 15, 2017. This provision would also eliminate DEQ's annual report on the mercury switch removal program.
- DEQ's annual report on the Sedimentation Pollution Control Act of 1973 would be consolidated with the stormwater control program report. The combined report would be due annually and the first report must be submitted by October 1, 2016.

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- DEQ's annual reports on the development of the State water supply plan and the development of basinwide hydrological models would be consolidated with the annual report on basinwide water quality management submitted by the EMC and DEQ. The combined report would be due annually and the first report must be submitted by November 1, 2016.
- DEQ's annual 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 combined report would be due annually and the first report must be submitted to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (ANER Oversight Committee) and the Fiscal Research Division, by November 1, 2016.
- The Soil and Water Conservation Commission's annual 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 annual 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 combined report would be due annually and the first report must be submitted by January 31, 2017.

Sections 4.20. through 4.24. would make the following changes:

- Reduce the frequency of reporting on terminal groin projects by the CRC from annually to every five years.
- Reduce the reporting frequency on the State Parks System Plan by the Department of Natural and Cultural Resources from annually to every five years and directs the Department to submit the report to ANER Oversight Committee in addition to other entities.
- Redirect the interagency report on the use of Superfund cost share funds to the ANER Oversight Committee.
- Redirect the annual report on expenditures from the Bernard Allen Emergency Drinking Water Fund to the ANER Oversight Committee.
- Redirect the annual report on allocations from the Parks and Recreation Trust Fund to the ANER Oversight Committee.

PART IV-A. UMSTEAD ACT STUDY

Section 4A.1. would direct the Department of Administration to study how the Umstead Act may be modified to balance the State's interest in self-limiting governmental participation in business through the leasing or subleasing of State-owned property and the State's interest in properly stewarding assets of the State that are currently unneeded and underutilized. The Department must submit the report required by this section, along with recommended legislative changes, to the Joint Legislative Commission on Governmental Operations no later than November 1, 2016.

PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 5.1. would add a severability clause to the bill.

Section 5.2. would provide that, except as otherwise provided, the provisions of the bill would be effective when it becomes law.