



# SENATE BILL 131: Regulatory Reform Act of 2016.

2017-2018 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	March 3, 2017
<b>Introduced by:</b>	Sens. Wells, Cook, Sanderson	<b>Prepared by:</b>	Jeff Hudson, Jennifer McGinnis, Jennifer Mundt, Chris Saunders, Layla Cummings Committee Staff
<b>Analysis of:</b>	Second Edition		

**OVERVIEW:** *Senate Bill 131 would amend several State laws related to State and local government regulation and agricultural, energy, environmental, and natural resources regulation.*

## CURRENT LAW AND BILL ANALYSIS:

### PART I. STATE AND LOCAL GOVERNMENT REGULATION

#### COPIES OF CERTAIN PUBLIC RECORDS

**Section 1.1.** would, effective July 1, 2017, 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.

#### CLARIFY PRIVATE DRINKING WATER WELL PERMITTING REQUIREMENTS

**Section 1.2.** would clarify that a local health department has exclusive authority to permit and inspect private drinking water well systems, and that no building permit is required for a certified well contractor to either (i) connect or disconnect a well system to the plumbing of the structure served by the well or (ii) connect or disconnect electrical wiring to the pump or pressure switch of a well system to the electric service that serves the well system. A well system would be defined to include the well, the pressure tank, and all plumbing and electrical equipment in the well and between the well and the pressure tank.

### PART II. AGRICULTURE, ENERGY, ENVIRONMENTAL, AND NATURAL RESOURCES REGULATION

#### ELIMINATE OUTDATED PROVISION OF THE COASTAL AREA MANAGEMENT ACT

**Section 2.1.** 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.

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## **EXEMPT LANDSCAPING MATERIAL FROM STORMWATER MANAGEMENT REQUIREMENTS**

**Section 2.2.** would exempt 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, from the definition of built-upon area for purposes of implementing stormwater programs. Section 2.2 would also allow the owner or developer of property to opt out of any of the exemptions from built-upon area.

## **PROHIBIT CERTAIN STORMWATER CONTROL MEASURES**

**Section 2.3.** 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.

## **AMEND STREAM MITIGATION REQUIREMENTS**

**Section 2.4.** would:

- Establish a statutory 300 linear foot threshold for mitigation of losses of stream bed; provide that for losses of more than 300 linear feet of stream bed, 300 linear feet of those losses don't have to be mitigated; and direct the Environmental Management Commission to amend its rules accordingly.
- Direct the cochairs of the Environmental Review Commission (ERC) to examine the mitigation thresholds for losses of stream bed adopted by the Norfolk, Charleston, and Savannah Districts of the U.S. Army Corps of Engineers (Corps). The ERC cochairs must submit written comments to the Corps' Washington, D.C. Headquarters, the Wilmington District Office, and the North Carolina congressional delegation to encourage the Wilmington District to adopt a threshold consistent with those adopted for the aforementioned districts.

## **COASTAL RESOURCES COMMISSION RULES ON TEMPORARY EROSION CONTROL STRUCTURES**

**Section 2.5.** 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 new rules were approved at the May 2016 meeting of the CRC and are currently in the rulemaking process to become permanent rules. This section would allow the CRC to adopt or modify those rules through emergency rulemaking.

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

**Section 2.6.** 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 2.7.** 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.

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

**Section 2.8.** would, effective October 1, 2017, 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 2.9.(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 2.9.(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 2.9.(c)** would direct DNCR and WRC to study and make recommendations to the Environmental Review Commission (ERC) by December 31, 2017, 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 2.10.** 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 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.

## **REPEAL PASTURE POINTS PROVISION**

**Section 2.11.** would repeal a 2001 provision that directed the Soil and Water Conservation Commission to approve best management practices for pasture-based production and a point system applicable to pasture management practices no later than September 1, 2002. The point system was never implemented.

## **ESTABLISH NORTH CAROLINA SENTINEL LANDSCAPES COMMITTEE**

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**Section 2.12.** would establish the North Carolina Sentinel Landscape Committee (Committee). The Committee is directed to:

1. Recognize all lands in the State as Sentinel Landscapes that are designated as such by the United States Department of Defense.
2. Identify and designate certain lands to be contained in the sentinel landscape of this State that are of particular import to the nation's defense and in the vicinity of major military installations, or other areas of strategic benefit to national defense.
3. Evaluate all working or natural lands that the Committee identifies as contributing to the long-term sustainability of the military missions in the State.
4. Develop recommendations to encourage landowners located within the sentinel landscapes (as designated above) to voluntarily participate in and begin or continue land uses that are compatible with the United States Department of Defense operations in this State.
5. Provide technical support and assistance to landowners who voluntarily participate in the sentinel landscape program.

In addition to the chair appointing members who represent other State agencies, local government officials, and nongovernmental organizations that are experienced in land management activities within sentinel lands, the Committee is made up of the following four members: (i) the Commissioner of Agriculture, or the Commissioner's designee, (who will serve as chair for an initial two-year term); (ii) the Secretary of DMVA, or the Secretary's designee; (iii) the Secretary of Natural and Cultural Resources, or the Secretary's designee; (iv), the Executive Director of the Wildlife Resources Commission, or the Executive Director's designee, and (v) the Dean of the College of Natural Resources at North Carolina State University, or the Dean's designee.

The Committee must report on its activities to implement this section along with any findings, recommendations, and legislative proposals to both the Military Affairs Commission and the Agriculture and Forestry Awareness Study Commission beginning September 1, 2017, and annually thereafter until such time as the Committee completes its work.

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

**Sections 3.1 through 3.23** would eliminate, consolidate, redirect and make other changes to various environmental and natural resources reports.

**Sections 3.1. through 3.10.** 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.

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- The biennial report on the state of the environment by DEQ.
- The annual report on fish kill activity 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.
- The report on informal review process for agency review of engineering work.

**Sections 3.11. through 3.18.** 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.
- 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, 2018.
- 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, 2018.
- 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, 2017.
- 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, 2017.
- 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, 2017.
- 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

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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, 2018.

**Sections 3.19. through 3.23.** 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.

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