



HOUSE BILL 308: Regulatory Reform Act of 2020.

2019-2020 General Assembly

Committee:		Date:	June 25, 2020
Introduced by:	Reps. Dixon, Strickland, Barnes, Conrad	Prepared by:	Kyle Evans and Jennifer McGinnis
Analysis of:	Conference Committee Substitute (H308-CCSBR-12)		Staff Attorney

OVERVIEW: *The Proposed Conference Committee Substitute for House Bill 308 would amend State laws related to agriculture, energy, environment, natural resources, State and local government, and other various regulations.*

CURRENT LAW/BILL ANALYSIS:

NORTH CAROLINA ON-SITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD/GRANT OF AUTHORITY TO HOLD REAL PROPERTY

Section 1 would expand the powers and duties of the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board to authorize the Board to acquire, hold, convey, rent, encumber, alienate, and otherwise deal with real property in the same manner as a private person or corporation, subject only to the approval of the Governor and Council of State.

ESTABLISH A MAXIMUM FEE FOR THE AUTHORIZED ON-SITE WASTEWATER EVALUATOR PROGRAM

Section 1A would authorize the North Carolina On-Site Wastewater Contractors and Inspectors Certification Board to establish an application fee for an authorized on-site wastewater evaluator in an amount not to exceed \$300.

ALLOW DIVISION OF COASTAL MANAGEMENT TO ACCEPT ELECTRONIC PAYMENTS

Section 2 would allow the Division of Coastal Management, or the appropriate city or county authority, to accept electronic payments for permit applications, in addition to checks or money orders.

ALLOW THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ESTABLISH EMERGENCY MEASURES AND PROCEDURES APPLICABLE TO SOLID WASTE MANAGEMENT DURING A STATE OF EMERGENCY DECLARED BY THE GOVERNOR

Section 3 would authorize the Secretary of the Department of Environmental Quality (DEQ) to develop and implement emergency measures and procedures necessary for the proper management of solid waste generated during a state of emergency declared by the Governor. Such emergency procedures and

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Legislative Analysis
Division
919-733-2578

House CCS 308

Page 2

measures would expire no more than 60 days after a declaration of a state of emergency has expired or been rescinded by the Governor, and may include any of the following: (i) restrictions on the collection, storage, and transportation of solid waste; (ii) decisions on facility operational conditions such as operational times and waste acceptance and (iii) any other measures or procedures necessary to allow for the proper disposal of solid waste within impacted communities.

ABANDONED AND DERELICT VESSELS

S.L. 2019-224 allocated \$1,000,000 to the Wildlife Resources Commission (WRC) to inspect, investigate, and remove derelict and abandoned water vessels.

Section 4 would amend S.L. 2019-224 to require WRC to provide notice to the owner of an abandoned or derelict vessel, if possible, post notice on the vessel itself, and allow 30 days for response prior to taking actions to remove and dispose of the abandoned or derelict vessel. This section would also direct that WRC prioritize the removal of abandoned and derelict vessels on public waters and lands, and clarify the definition of "abandoned and derelict vessel."

CLARIFY FUNDING FOR THE LINDSEY BRIDGE DAM REPAIR AND STREAM RESTORATION PROJECT IN ROCKINGHAM COUNTY

In 2018, the General Assembly allocated \$2,000,000 for the Lindsey Bridge dam repair and stream restoration project.

Sections 5 and 6 would reallocate those funds to provide a directed grant to the Town of Madison for the Lindsey Bridge dam repair and stream restoration project, subject to certain requirements. This section would expire on June 30, 2021.

MERCURY SWITCH PROGRAM EXTENSION

Current law requires that persons who dispose of end-of-life vehicles must remove mercury switches from vehicles prior to the vehicles being destroyed. The cost of this removal program is funded by a portion of the revenues from motor vehicle certification of title fees. From these funds, \$5.00 is paid to the person removing the mercury switch. The program is scheduled to expire in June 2021.

Section 7 would extend the expiration of the Mercury Switch Program, and the funding for the program, from June 2021 until June 2031.

COLLABORATORY REPORTING CHANGES

Section 8 would:

- Delay deadlines for the following reports, due to the impact of the COVID-19 pandemic on academic research required for the legislative directives:
 - From October 2020 to April 2021, the Collaboratory's report on the results of sampling done in conjunction with nontargeted analysis for PFAS at all public water supply surface water intakes and one public water supply well to establish a water quality baseline for all sampling sites.

House CCS 308

Page 3

- From December 2020 to June 2021, the Collaboratory's report on the study of flooding and resiliency against future storms in Eastern North Carolina and development of an implementation plan with recommendations.
- Amend the language enacted in 2016 that originally established the Collaboratory, which provided its purpose was to facilitate the dissemination of the policy and research expertise of The University of North Carolina, to also include other institutions of higher learning within North Carolina. Language is also added, however, to provide that wherever possible, funding preference may be given to campuses within The University of North Carolina System. In addition, language is added to provide that any funds appropriated by the General Assembly for use by the Collaboratory may not be used for indirect overhead costs.

EXTEND RIGHT TO WORK AUTHORIZATION FOR STATE AND LOCAL GOVERNMENT RETIREES DURING THE COVID-19 EMERGENCY

Sec. 4.23 of the COVID-19 Recovery Act (S.B. 704/S.L. 2020-3) temporarily changed the six month separation requirement for Teachers' and State Employee's Retirement System (TSERS) retirees to a one-month separation for persons retiring during a certain period who return to work in a position needed due to COVID-19, and made other associated changes. The section included an expiration date of August 1, 2020.

Section 9 would extend the expiration date of the provision from August 1, 2020 to August 31, 2020.

MINE RECLAMATION REPORTING DATE CHANGE

Section 10 would move the annual mine reclamation reporting date for mine operators from July 1 to September 1, and move the date late fees begin for failure to submit the annual report or pay the required annual fee to accrue from July 31 to September 30.

DEQ REPORTS DATE CHANGE

Section 11 would move the reporting date for certain Department of Environmental Quality (DEQ) reports, largely related to solid waste, to April 15th, from January 1, make other conforming changes, and change the recipient of annual reports relating to the use of federal dredging funds from the Joint Legislative Commission of Governmental Operations to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources.

TECHNICAL AND CONFORMING CHANGES TO SOLID WASTE STATUTES

Section 12 would make a conforming change to a statute governing penalties for solid waste violations, and associated rulemaking, to reflect legislation enacted in 2013 that transferred authority over solid waste matters from the Commission for Public Health to the Environmental Management Commission.

Section 13 would make a technical correction concerning a statutory cross-reference.

House CCS 308

Page 4

CONSOLIDATE RIVER BASIN ADVISORY COMMISSION REPORTS

The River Basin Advisory Commission, consisting of the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission, must report the findings of two annual audits to multiple entities in North Carolina, South Carolina, and Virginia by March 1 of each year, and must submit two annual reports to those entities by October 1 of each year.

Section 14 would move the audit report date to October 1 of each year, allowing the River Basin Advisory Commission to submit the required audits as a part of the required annual report, and simplify the number of entities receiving the annual reports.

ELECTRONIC PERMITTING CLARIFICATION

Section 15 would clarify that the Environmental Management Commission may issue permits, certifications, authorizations, or other approvals by electronic delivery, registered or certified mail, or any other means authorized by G.S. 1A-1, Rule 4.

NONBETTERMENT COST RECOVERY FOR CERTAIN PRIVATE WATER AND SEWER SYSTEMS

The NC Department of Transportation (DOT) is authorized by G.S. 136-18(10) to allow entities that provide various utility services to locate their utility lines in DOT rights-of-way. The cost to move the lines because of a DOT project must be paid by the utility, unless State law provides otherwise. G.S. 136-27.1 requires DOT to pay the nonbetterment cost of relocating the water and sewer lines owned by certain entities in the transportation right-of-way when the lines must be moved for a transportation improvement project.

DOT must pay the nonbetterment cost to move water and sewer lines belonging to the following:

- Municipalities with a population of 10,000 or less, including lines for systems that were initially organized under Chapter 162A.
- Nonprofit water or sewer associations and corporations.
- A water or sewer system organized under Chapter 162A.
- A rural water system operated as a County enterprise system.
- Sanitary districts.
- Local boards of education.

Section 16 would add water and sewer lines owned by a private water or sewer utility organized pursuant to Chapter 62 of the General Statutes serving 10,000 or fewer customers to the type of lines that DOT must pay to relocate for transportation improvement projects. This section would be effective retroactively to March 1, 2020, and would apply to nonbetterment costs for State transportation improvement projects incurred on or after that date.

UNDERGROUND STORAGE TANK SPILL BUCKET RULE CHANGE

Section 17 would require the Environmental Management Commission to adopt a rule to allow the use of mechanical liquid detecting sensors for interstitial leak detection on spill buckets replaced on underground storage tanks installed prior to November 1, 2007, if those spill buckets meet certain requirements. This

House CCS 308

Page 5

section would apply to all spill buckets replaced on or after August 1, 2020, and would expire when the Environmental Management Commission adopts permanent rules implementing

PREVENT FROM BECOMING EFFECTIVE RULES MODIFYING THE NORTH CAROLINA BUILDING CODE

On March 10, 2020, the North Carolina Building Code Council adopted, and the Rules Review Commission later approved, rules that would allow certain large plastic pipes to be used in drain, waste, and vent conductors in buildings in which the top occupied floor exceeds 75 feet in height.

Section 18 would prevent those rules from becoming effective.

LIBRARY STATUTE CHANGES

The Public Librarian Certification Commission is comprised of 5 members and reserves one seat for the dean of an accredited North Carolina graduate school of librarianship appointed by the Governor. Of the five accredited library schools in the State, only two use the term "dean" to denote the program head.

Section 19(a) would expand the dean's seat to include "department chair, program director, or equivalent."

Pursuant to current law, the State Library Commission (Library Commission) must have at least four standing committees comprised of six members appointed annually by the Secretary of the Department of Natural and Cultural Resources and approved by the Library Commission.

Section 19(b) would eliminate the requirement for standing committees within the State Library Commission, and instead give the authority to create four-person committees to the Chair of the State Library Commission with the approval of the Library Commission.

Section 19(c) repeals the requirement that State publications that are of historical or enduring value and importance to the citizens of North Carolina must be printed on alkaline (acid-free) paper.

LOCAL PLANNING AND DEVELOPMENT REGULATION CONFORMING CHANGE

Planning and zoning statutes in Chapters 153A and 160A were recodified in a new Chapter 160D of the General Statutes effective June 19, 2020, by S720/S.L. 2020-25.

Section 20 would conform a section in the new Chapter 160D with a change made in Chapter 153A in Senate Bill 315.

Section 21 would update cross-references to a section in Chapter 153A to refer to the appropriate section in Chapter 160D.

AMEND SPECIES CONSERVATION PLAN PROCESS

The Wildlife Resources Commission (WRC) must develop conservation plans for the recovery of protected wild animal species. The conservation plans serve as guidelines and provide recommendations for State and federal agencies, as well as conservation partners, to help direct their conservation efforts.

Section 22 would change the process WRC uses to adopt conservation plans, eliminate part of the required analysis, require WRC to publish draft plans online, and consider public comment. This section would direct the NC Nongame Wildlife Advisory Committee to assist WRC in developing the

House CCS 308

Page 6

conservation plans, including establishing a priority order for conservation plans and determining where combined conservation plans may be appropriate.

CONFIDENTIALITY CHANGES FOR CERTAIN DOCUMENTS IN SECURITIES INVESTIGATIONS

Section 23 would exempt from public records requests certain investor financial information obtained during an investigation conducted by the Secretary of State.

ALLOW SELF-INSURERS TO MAKE PAYMENTS FOR AN INITIAL ASSESSMENT OVER A PERIOD

Section 24 would allow an individual self-insurer upon receiving its license from the North Carolina Commission of Insurance to pay its required initial assessment over a period as determined by the Board of Directors of the North Carolina Self-Insurance Security Association. Pursuant to current law, an initial assessment must be paid upon the receipt of an initial license by an individual self-insurer.

ALLOW A TEACHING HOSPITAL AFFILIATED WITH BUT NOT PART OF ANY CONSTITUENT INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA TO ASSIGN CAMPUS POLICE OFFICERS OF ITS CAMPUS LAW ENFORCEMENT AGENCY TO ANY OTHER FACILITY WITHIN THE TEACHING HOSPITAL'S SYSTEM NETWORK

Section 25 would allow a campus police agency of a teaching hospital affiliated with but not part of any constituent institution of The University of North Carolina to assign its campus police officers to any other facility within that teaching hospital's system network. The jurisdiction of campus police officers assigned in this way would extend only to the premises of the assigned facility, and would not include any public roads or highway passing through or immediately adjoining the facility.

AUTHORIZE LOCAL CONFINEMENT FACILITIES TO PROVIDE AND USE WIRELESS COMMUNICATION DEVICES

Pursuant to G.S. 14-258.1, providing a mobile telephone or other wireless communication device to an inmate of a local confinement facility is a felony.

Section 26 would authorize local confinement facilities to provide inmates with a mobile telephone or other wireless communication device if the specific device has been approved by the sheriff or other person in charge of the local confinement facility for use by inmates, and the device is provided to the inmate in a manner consistent with the approved use of that device. This section would become effective August 1, 2020, and apply to offenses committed on or after that date. This section would not abate or affect prosecutions for offenses committed before the effective date of this section.

EXTEND SUNSET ON REMOTE NOTARIES AND VIDEO WITNESSING

Section 27 would extend the authorization for remote notaries and video witnessing from August 1, 2020 to March 1, 2021.

House CCS 308

Page 7

ARCHITECTURAL LICENSE EXCEPTION FOR SMALL PROJECTS

Under current law, an architectural license is not needed for commercial projects that have a value of \$90,000 or less or an area of less than 2,500 square feet.

Section 28 would allow commercial architectural projects with a value of \$200,000 or an area of less than 3,000 square feet to be completed without an architectural license.

NORTH CAROLINA BOARD OF ARCHITECTURE MODIFICATIONS

Section 29 would make technical changes to statutes relating to the North Carolina Board of Architecture and the criteria necessary to sit for the architect licensure exam.

BROADBAND EASEMENTS

Under current law, electric membership corporations and their subsidiaries are permitted to use easements held for the purpose of electrification to also supply high-speed broadband.

Section 30 would clarify that with regard to easements held by electric membership corporations and their subsidiaries for electrification and to supply high-speed broadband, the corporations and subsidiaries must comply with applicable requirements related to notice, safety, and permitting requirements when constructing or maintaining lines or broadband fiber on, over, under, or across property owned by a railroad company.

CLARIFICATION REGARDING SUBMISSION OF CERTAIN COMPONENT DESIGNS OR PROPOSALS

Pursuant to G.S. 160D-1106, a city must approve, without further responsibility to inspect, a design or proposal for a component or element in the construction of buildings from a licensed architect or engineer provided certain criteria are met, including that the design or proposal is completed under valid seal of the licensed architect or engineer.

Section 31 would require the design or proposal be completed under valid seal of an architect or engineer only when required by the North Carolina State Building Code.

EFFECTIVE DATE: Except as otherwise provided, this act would become effective when law.