



SENATE BILL 315: North Carolina Farm Act of 2019-20.

2019-2020 General Assembly

Committee:		Date:	June 3, 2020
Introduced by:	Sens. B. Jackson, Sanderson, Johnson	Prepared by:	Chris Saunders
Analysis of:	Conference Committee Substitute (S315-CCSTQ-6)		Staff Attorney

OVERVIEW: *The Conference Report for Senate Bill 315 would make various changes to laws concerning agriculture in the State. The Conference Report makes the following changes from the Tenth Edition:*

- *Deletes all sections related to hemp.*
- *In Section 5, removes shooting sports from additions to the definition of agritourism.*
- *Adds Section 15, specifying that the Total Maximum Daily Load (TMDL) transport factor applies when offsetting certain permitted wastewater discharges.*

CURRENT LAW AND BILL ANALYSIS:

REQUIRE UTILITY COMPANIES TO DISPOSE OF CERTAIN UNUSED EASEMENTS UNDER CERTAIN CIRCUMSTANCES

Section 1 would create a process by which the underlying fee owner of land encumbered by any easement acquired by a utility company, on which the utility company has not commenced construction within 20 years of the date of acquisition, may file a complaint with the Utilities Commission for an order requiring the utility company to terminate the easement in exchange for payment by the underlying fee owner of the current fair market value of the easement. If the utility company does not agree that the easement should be terminated, the utility company may request a determination from the Utilities Commission as to whether the easement is necessary or advisable for the utility company's long range needs for the provision of utilities to serve its service area, and whether termination of the easement would be contrary to the interests of the using and consuming public. If the parties cannot reach a mutually agreeable fair market value, the Commission would request the clerk of superior court in the county where the easement is located to appoint commissioners to determine the fair market value in accordance with the eminent domain valuation process.

This section would become effective October 1, 2020, and would apply to easements acquired on or after that date.

RIGHT-OF-WAY FOR LEFT-TURNING FARM EQUIPMENT

Section 2 would prohibit the passing of self-propelled farm equipment by vehicles proceeding in the same direction when the farm equipment is making a left turn or signaling that it intends to make a left turn.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578

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This section would become effective December 1, 2020, and would apply to offenses committed on or after that date.

EXPAND AGRICULTURAL OUTDOOR ADVERTISING

Section 3 would expand outdoor advertising near highway rights-of-way for bona fide farm property by increasing the size of the sign allowed, broadening the area where the sign could be placed, allowing all bona fide farms to place signs, and allowing the sign to stand year-round.

AGRICULTURE AND FORESTRY AWARENESS STUDY COMMISSION COCHAIR HOLDOVER

Section 4 would provide that a cochair of the Agriculture and Forestry Awareness Study Commission may continue to serve for so long as the cochair remains a member of the General Assembly and no successor has been appointed. A cochair of the Commission who does not seek reelection or is not reelected to the General Assembly would be allowed to complete a term of service on the Commission until the day on which a new General Assembly convenes.

ADD HUNTING, FISHING, AND EQUESTRIAN ACTIVITIES TO THE DEFINITION OF AGRITOURISM, AND LIMIT REGULATION OF CATERING BY BONA FIDE FARMS

Sections 5.(a) and 5.(b) would add hunting, fishing, and equestrian activities to the listed activities that constitute agritourism for purposes of agritourism activity liability and county zoning.

Sections 5.(c) and 5.(d) would prohibit local governments from requiring a business located on a property used for bona fide farm purposes, that provides on- and off-site catering services, to obtain a permit to provide catering services within the local government. These sections would not exempt the business from any health and safety rules adopted by a local health department, the Department of Health and Human Services, or the Commission for Public Health.

ENACT THE NORTH CAROLINA SWEETPOTATO ACT FOR THE PROMOTION OF NORTH CAROLINA SWEETPOTATOES

Section 6 would allow the Commissioner of Agriculture to register, license, and protect a trademark for the sale and promotion of North Carolina Sweetpotatoes and to collect a reasonable royalty or license fee for use of the mark. The Commissioner would be required to remit all royalties and license fees received, less any costs associated with monitoring the use of the trademark, prohibiting the unlawful or unauthorized use of the trademark, and enforcing rights in the trademark, to the North Carolina SweetPotato Commission for the promotion of North Carolina sweetpotatoes. This section would also direct the Commissioner to appoint a Sweetpotato Advisory Council to give advice on the promotion of North Carolina sweetpotatoes.

SOIL AND WATER CONSERVATION JOB APPROVAL AUTHORITY

Section 7 would allow the North Carolina Soil and Water Conservation Commission (SWCC) to grant engineering job approval authority to Soil and Water Conservation District technical staff for the planning,

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design, and implementation of best management practices approved by the SWCC. Under current law, job approval authority can only be granted to Soil and Water Conservation District staff by the USDA Natural Resources Conservation Service.

PRESENT USE VALUE DISQUALIFICATION EVENT NOTIFICATION

Section 8 would provide that if a tax assessor determines that a property loses its eligibility for present-use value classification for a reason other than failure to file a timely application required due to transfer of the land, the assessor must provide written notice of the decision. The decision would have to be appealed within 60 days after the date of the written notice. A new appeal to a decision of the assessor regarding the disqualification of property for which notice was received would not have to be submitted for subsequent tax years while the appeal of that disqualifying event is outstanding. When a property's present-use value classification is reinstated upon appeal of the disqualifying event, it would be reinstated retroactive to the date the classification was revoked. If the assessor determines during the appeal process that the property has lost its eligibility for present use value classification because of an additional disqualifying event, the assessor would be required to provide written notice of the subsequent disqualification.

CHANGE NAME OF FOOD PROCESSING INNOVATION CENTER COMMITTEE

Section 9 would change the name of the Food Processing Innovation Center Committee, established in the 2017 Appropriations Act, to the North Carolina Food Innovation Lab Committee, to be consistent with the name of the facility at the North Carolina Research Campus in Kannapolis. This section would also sunset the North Carolina Food Innovation Lab Committee on January 1, 2021.

SOIL AND WATER CONSERVATION CONFIDENTIALITY CHANGE

Section 10 would provide that all information that is collected by soil and water conservation districts from farm owners, animal owners, agricultural producers or owners of agricultural land that is confidential under federal or State law must be held confidential by the soil and water conservation districts. This would include (i) information provided by an agricultural producer or owner of agricultural land concerning the agricultural operation, farming or conservation practices, or the land itself, in order to participate in soil and water conservation programs, and (ii) geospatial information otherwise maintained by the district about agricultural lands or operations certain information is provided. This would not include applications for cost share assistance and associated contract documents that require the approval of the soil and water conservation district or the Soil and Water Conservation Commission.

This section would become effective October 1, 2020.

CLARIFY PERMITTING FOR CERTAIN SWINE FARM MODIFICATIONS

Section 11 would allow the Environmental Management Commission to issue or modify a permit to authorize the construction, operation, or expansion of an animal waste management system serving a swine farm that employs an anaerobic lagoon as the primary method of treatment and land application of waste by means of a sprayfield as the primary method of waste management if the permitting action does not result in an increase in the permitted capacity of the swine farm, as measured by the annual steady

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state live weight capacity of the swine farm. The system could also meet the performance standards for new animal waste management systems serving swine farms that were enacted in 2007.

PREVENT GRANT FUNDING DUPLICATION

Section 12 would amend existing law to provide that projects that are part of the Environmental Quality Incentives Program (EQIP) are ineligible for State Water Resources Development Grant (WRDG) funding if they receive funding from the Clean Water Management Trust Fund (CWMTF), and are ineligible for CWMTF funding if they receive WRDG funding. This section would also require the Department of Environmental Quality (DEQ) and the Department of Natural and Cultural Resources to report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than September 30, 2020, regarding funding overlaps between water resources development grant funding and CWMTF grants for EQIP funding for the Western Stream Initiative and the efforts of both Departments to improve administration of State grants for that program.

IMPROVE PERFORMANCE MANAGEMENT OF STATE GRANT FUNDS

Section 13 would direct DEQ and, as applicable, the CWMTF to collect and report to the General Assembly certain grant administration and grant implementation efficiency and effectiveness measures.

AGRICULTURE AND FORESTRY AWARENESS DAIRY STUDY

Section 14 would direct the Agriculture and Forestry Awareness Study Commission to study policy options available to support the dairy industry in North Carolina and report its findings and recommendations, including any legislative proposals, to the General Assembly by December 1, 2021.

SPECIFY THAT THE TMDL TRANSPORT FACTOR APPLIES WHEN OFFSETTING CERTAIN PERMITTED WASTEWATER DISCHARGES

Sections 15.(a) and 15.(b) would provide that nutrient offset credits must be applied to a wastewater permit by applying the Total Maximum Daily Load (TMDL) transport factor to the permitted wastewater discharge and to the nutrient offset credits. This section would apply only to wastewater discharge permit applications for a local government located in the Neuse River Basin with a customer base of fewer than 15,000 connections.

Section 15.(c) would provide that no later than August 1, 2020, DEQ, in conjunction with affected parties, must begin modelling necessary to determine new transport zones and delivery factors for the Neuse River Basin for point source discharges and nutrient offset credits. The Environmental Management Commission would then be required to adopt new transport zones and delivery factors by rule, using the DEQ modelling and other information provided during the public comment period.

This section would be effective when it becomes law, and Sections 15.(a) and 15.(b) would expire when the rule required by Section 15.(c) becomes effective.

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