



SENATE BILL 553: Regulatory Reform Act of 2019.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2019-2020 General Assembly

Committee:	House Regulatory Reform. If favorable, re- refer to Rules, Calendar, and Operations of the House	Date:	June 21, 2019
Introduced by:	Sens. Sanderson, Wells	Prepared by:	Jason Moran-Bates
Analysis of:	PCS to Third Edition S553-CSBC-49		Jeremy Ray Staff Attorney

OVERVIEW: *Senate Bill 553 would amend several State laws related to State and local government regulation, and agricultural, energy, environmental, and natural resources regulation.*

BILL ANALYSIS:

PART I. STATE AND LOCAL GOVERNMENT REGULATION

SECTION 1. INCREASE LIMITS ON PUBLIC EMPLOYEES BENEFITTING FROM PUBLIC CONTRACTS

Under current law, the statutes generally prohibit a public officer or employee who is involved in making or administering a contract on behalf of a public agency from deriving a direct benefit from the contract except in certain circumstances. Various public officials are exempt from the prohibition if the amount of the agreement between the government and the official does not exceed the following within a 12-month period:

- \$20,000 for medically related services.
- \$40,000 for other goods and services.

The public officials exempted are as follows:

- Any holder of an elective municipal office or member of a city school board in a municipality of no more than 15,000 population.
- Any holder of an elective county office or member of a county school board in a county that contains no municipality of more than 15,000.
- A physician or member of other listed medical professions appointed to a local social services board, health board, or area mental health, developmental disabilities, and substance abuse board in a county containing no municipality of more than 15,000.
- Any member of a board of directors of a public hospital, regardless of the population.

The exemption is not available unless the agreement is entered into publicly, the official entering into the contract abstains from participating or voting, the contract is disclosed in the audited financial report of the local government, and in a conspicuous public posting.

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Senate PCS 553

Page 2

Section 1 would raise the dollar threshold for contracts exempted from the conflict-of-interest prohibition from \$40,000 to \$60,000 for goods and services that are not medically related. This section would be effective when it becomes law, and apply to contracts executed on or after that date.

SECTION 2. AMENDMENTS TO THE 2018 NORTH CAROLINA PLUMBING CODE

Section 2 would require the Building Code Council to amend a section of the Building Code and a section of the Plumbing Code as follows:

- Revise Sec. 2902.6 of the 2018 Building Code to provide that drinking fountains are not required for an occupant load of 30 or fewer (current law provides that drinking fountains are not required for an occupant load of 15 or fewer).
- Revise Table 403.1 of the Plumbing Code to provide that: (i) only one water closet is required for business occupancies with an occupant load of 30 or fewer (current law provides that one is required for occupant loads of 25 or fewer); and (ii) no service sink is required for business and mercantile occupancies with an occupant load of 30 or fewer (current law provides that one is not required for occupant loads of 25 or fewer).

SECTION 3. FIRE CODE WASTE ACCUMULATION PROVISIONS

Section 3 would require the Building Code Council to amend the Fire Prevention Code to allow doorstep garbage and recycling containers as follows:

- For apartments with enclosed corridors, the containers must be no more than 13 gallons in size and cannot remain in an exit corridor for no more than five hours at a time, or in a non-exit access corridor for more than 12 hours at a time. Building management must have written policies in place to ensure compliance with these requirements.
- For apartments with open-air corridors, the containers must be no more than 27 gallons in size and cannot remain in an exit corridor for more than five hours at a time or reduce the means of egress below what is permitted by the Code. Building management must have written policies in place to ensure compliance with these requirements.

SECTION 4. MODIFY REAL ESTATE LICENSING REQUIREMENT FOR TIME SHARE SALESPEOPLE

Under current law, it is unlawful for:

- Any person to engage in the business of a time share salesperson without first obtaining a real estate broker license issued by the North Carolina Real Estate Commission.
- A time share developer to sell or offer to sell a time share located in this State without first obtaining a certificate of registration for the time share project to be offered for sale issued by the North Carolina Real Estate Commission.

Section 4 would modify the requirement that a time share salesperson obtain a real estate broker license, to provide that a time share salesperson must be a licensed real estate broker unless the time share salesperson meets the requirement for an exemption under general law from licensure pertaining to business entities that, as owner or lessor, are acting with reference to property owned or leased by them in the regular course of, or as incident to, the management of that property. This exemption from licensure extends to officers and employees, general partners, and similarly situated persons, whose income is reported on IRS Form W-2 of an exempt corporation. When a person conducts a real estate transaction pursuant to this exemption, the person must disclose in writing to all parties to the transaction that the person is not licensed as a real estate broker or salesperson, information about this exemption, and the legal name and physical address of the owner of the subject property and of the applicable business entity.

Senate PCS 553

Page 3

SECTION 5. STUDY ONLINE CONTINUING EDUCATION REQUIREMENTS

Section 5 would require every occupational licensing board to study and report on any available options offered for online continuing education if continuing education is a requirement for licensure under the occupational licensing board's applicable laws or regulations. Each occupational licensing board required to study and report must provide its report to the Joint Legislative Administrative Procedure Oversight Committee and the Program Evaluation Division no later than December 1, 2019.

SECTION 6. STATEWIDE REQUIREMENTS FOR PIERS, DOCKS, AND BULKHEADS

Under current law, the Coastal Resources Commission may approve some land use plans that contain local restrictions that are more stringent than those required by state law.

Section 6 would prohibit the Commission from approving land-use plans containing provisions that are more restrictive than the state guidelines with respect to piers, docks, and bulkheads. It would also prohibit cities and counties from enforcing ordinances that are more restrictive than the state guidelines with respect to piers, docks, and bulkheads.

SECTION 7. EXEMPT ONSLOW COUNTY FROM VEHICLE EMISSIONS TESTING

Section 7 would remove Onslow County from the list of counties required to conduct vehicle emissions testing under G.S. 143.215.107(c).

SECTION 8. EXEMPT REFLEXOLOGY FROM THE DEFINITION OF MASSAGE THERAPY

Under current law, reflexology is not defined, nor is it specifically subject to regulation by the North Carolina Board of Massage and Bodywork Therapy.

Section 8 would create a definition of the term "reflexology" in Article 36 of Chapter 90 and specifically add individuals practicing reflexology to the list of things that do not require a license from the North Carolina Board of Massage and Bodywork Therapy.

SECTION 9. ADOPT 2017 FOOD CODE

Currently, the Commission for Public Health enforces the 2010 version of the Food and Drug Administration Food Code.

Section 9 would permit the Commission for Public Health to adopt the 2017 version of the Food and Drug Administration Food Code.

SECTION 10. TEMPORARY EVENT VENUES

Currently, there is no statutory provision allowing counties to establish a permitting process for temporary event venues.

Section 10 would add new sections to Part 3 of Article 19 of Chapter 160A, allowing counties to establish, by ordinance, a process to permit temporary event venues (TEV). The venue must be in an existing building or structure suitable for entertainment, education, marketing, meetings, sales, trade shows. The event can last no more than 72 hours. Only one TEV is allowed on one parcel of land. Counties may change an initial application fee of no more than \$100 and annual renewal fees of no more than \$50. The proposed TEV sites must be inspected before a permit can be issued. Applicants can be required to take

Senate PCS 553

Page 4

reasonable measures to address health and safety concerns identified in the pre-permit inspection, and the Building Code Council is required to create an inspection checklist for use in the pre-permit inspection process.

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

SECTION 11. CLARIFY LANDFILL LIFE-OF-SITE FRANCHISE REQUIREMENTS

Under current law, "life-of-site" permits are granted to sanitary landfills, and the law provides that such permits survive the expiration of a local government approval or franchise. The local government must allow the sanitary landfill to continue to operate until the term of the landfill's life of site permit expires if the owner or operator has complied with the terms of the local government approval or franchise agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life of site permit has expired. The law also provides, however, that in order to preserve any economic benefits included in the franchise, a county may extend a franchise under the same terms and conditions for the term of the life-of-site permit. These provisions are only applicable to valid and operative franchise agreements in effect on October 1, 2015.

Section 11 would amend current law that requires a local government to allow a sanitary landfill to continue to operate until the term of a landfill's life-of-site permit expires if the owner or operator has complied with the terms of the local government approval or franchise agreement, and remains in compliance with those terms after expiration of the approval or agreement until the life-of-site permit has expired. The section would delete the term "has complied" and substitute the phrase "is in substantial compliance" and delete the language that requires that the owner or operator remain in compliance with the terms of the franchise agreement.

SECTION 12. STUDY EXPRESS PERMITTING EXPANSION

Under current law the Department of Environmental Quality must offer an express review program to provide express permit and certification reviews in all of its regional offices for the following programs

- Stormwater permits.
- Stream origination certifications.
- Water quality certifications.
- Erosion and sedimentation control permits.
- Permits under the Coastal Area Management Act (CAMA).

Participation in the express review program is voluntary, and the program is supported by fees. Maximum permit application fees range from \$4,000 to \$5,500, depending on the number of permits needed that are subject to express permitting.

Section 12 would require DEQ to study and report on additional positions and funding needed, as well as any changes in State or federal laws and regulations necessary to expand the express permitting programs to include additional types of permits typically required for job creating and real estate development or redevelopment activities. Additional permits considered in the study shall include, at a minimum, permits

Senate PCS 553

Page 5

for facilities not discharging to the surface waters of the State and permits to apply petroleum contaminated soil to land. The Department must provide its report and recommendations to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division no later than March 1, 2020.

SECTION 13. EXTEND EMERGENCY GENERAL PERMIT DEADLINES

Section 13 would provide that, notwithstanding any provision of law to the contrary, Coastal Area Management Act Emergency General Permits authorized in response to Hurricanes Florence and Michael must be issued by October 12, 2019, with all work to be completed by October 12, 2020.

SECTION 14. WASTEWATER RESERVE PRIORITY

Under current law, the Division of Water Infrastructure must consider (in part) the following when determining priority for a loan or grant from the Wastewater Reserve or the Drinking Water Reserve: the effect on impaired waters and whether a project will address a conflict between local plans.

Section 14 would require priority to be given to projects that improve designated impaired waters of the State and that serve as a public water supply for a large public water system. It would also require the Division to give priority to improvements made by a local government unit in order to protect or preserve the water supply of a neighboring local government unit that has a lower poverty rate, lower utility bills, higher population growth, higher median household incomes, and lower unemployment.

PART III. MISCELLANEOUS REGULATORY REFORM PROVISIONS

SECTION 15. 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 15 would allow commercial architectural projects with a value of \$175,000 or an area of 3,000 square feet to be completed without an architectural license.

SECTION 16. SALE OF SALVAGED VEHICLES

Section 16 would allow a dealer to sell, without inspection, a salvage-titled vehicle if no repairs have been made, and the dealer discloses that no inspection has been performed.

SECTION 17. REVENUE LAWS STUDY

Section 17 would require the Revenue Laws Study Committee to review the methods used to determine the fair market value of outdoor advertising signs in North Carolina. The Committee must submit its report, along with any recommended legislation, to the 2020 Regular Session of the 2019 General Assembly.

SECTION 18. BROADBAND EASEMENTS

Under current law, electric companies are permitted to use easements held for the purpose of supplying power to also supply high-speed internet.

Section 18 would clarify the easements held by electric companies to supply high-speed internet and power would be subject to the same notice, safety, and permitting requirements as easements held solely to supply power.

Senate PCS 553

Page 6

SECTION 19. DESIGN STUDY

Section 19 would require the Program Evaluation Division to study and report on standards applicable to interior designers in North Carolina. The report must be submitted to the Joint Legislative Program Evaluation Oversight Committee by March 15, 2020, and include:

- An examination of certification requirements in other states.
- Whether interior designers should be licensed, certified, or registered in North Carolina.
- Training requirements for interior designers in North Carolina.
- The scope of practice for interior designers in North Carolina.
- Any other issues the Program Evaluation Division deems necessary.

SECTION 20. MANUFACTURED HOMES INSTALLATION

Section 20 would prohibit cities from requiring masonry curtain walls or masonry skirting from being installed on manufactured homes located on land leased to the homeowner.

SECTION 21. ELECTRIC STANDUP SCOOTERS

Section 21 would create a statutory definition for electric standup scooters and exempt them from registration requirements.

PART IV. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 22 would provide that:

- If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part declared to be unconstitutional or invalid.
- Except as otherwise provided, the act would be effective when it becomes law.

****Jennifer McGinnis and Jeffrey Hudson of the Legislative Analysis Division substantially contributed to this summary.****