



HOUSE BILL 366: Regulatory Reform Act of 2021.

2021-2022 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	June 30, 2021
Introduced by:	Reps. Yarborough, Bradford, Moffitt, Riddell	Prepared by:	Kyle Evans
Analysis of:	Fourth Edition		Staff Attorney

OVERVIEW: *House Bill 366 would amend State laws related to State and local government, agriculture, energy, environment, natural resources, and other various regulations.*

CURRENT LAW & BILL ANALYSIS:

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.

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 also increase the population limits from 15,000 to 20,000.

This section would be effective when it becomes law and would apply to contracts executed on or after that date.

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NC PRE-K SCHOOL OPTIONS

Section 2 would require NC Pre-K operators to provide parents with information pertaining to public and private school options in the county.

This section would become effective January 1, 2022.

STUDY EXPRESS PERMITTING EXPANSION

Under current law, DEQ must offer an express review program to provide express permit and certification reviews in all 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 3 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 for facilities not discharging to the surface waters of the State and permits to apply petroleum contaminated soil to land. DEQ 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, 2022.

WASTEWATER RESERVE PRIORITY

Pursuant to current law, DEQ's Division of Water Infrastructure (DWI) 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 4 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 (defined as those with over 175,000 service connections). It would also require DWI 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.

This section would become effective August 1, 2021 and apply to applications for loans of grants from the Wastewater Reserve of the Drinking Water Reserve received by the Division of Water Infrastructure on or after that date.

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REVENUE LAWS STUDY

Section 5 would require the Department of Revenue to provide to the Revenue Laws Study Committee, information related to the property taxation of outdoor advertising signs, and any other issues deemed relevant by the Department. The requested information would be required to be provided no later than March 31, 2022.

MANUFACTURED HOMES INSTALLATION

Section 6 would prohibit local governments from requiring masonry curtain walls or masonry skirting from being installed on manufactured homes located on land leased to the homeowner.

This section would become effective October 1, 2021.

DIVISION OF EMERGENCY MANAGEMENT STUDY

Section 7 would require the Division of Emergency Management of the Department of Public Safety to study the needs of law enforcement and first responders to improve access to the interstate system. The Division may consult with the Department of Transportation, the Office of State Fire Marshal of the Department of Insurance, the Office of Emergency Medical Services of the Department of Health and Human Services, or any other governmental organizations the Department deems necessary. The Division must report its findings to the Joint Legislative Oversight Committee on Justice and Public Safety, the Joint Legislative Emergency Management Oversight Committee, and the Joint Legislative Transportation Oversight Committee no later than March 1, 2022.

INSURANCE CANCELLATION PROOF OF MAILING

Section 8 would clarify that proof of mailing is sufficient proof of notice for certain insurance policy or renewal cancellations by the insurer.

This section would become effective October 1, 2021, and apply to policies issued, amended, or renewed on or after that date.

CLARIFICATION REGARDING USE OF INSURANCE RESTATEMENTS IN INTERPRETING LAW

Section 8A would clarify that statements or restatements of insurance law are not binding authority on North Carolina courts.

NONFORFEITURE INTEREST GUARANTEE CHANGE

The minimum nonforfeiture rate is the minimum interest rate guarantee that an insurance company can use in an individual fixed annuity contract to determine its cash value. G.S. 58-58-61(e) sets out that the minimum nonforfeiture rate is the lesser of 3% or the five-year Constant Maturity Treasury Rate reduced by 125 basis points where the resulting interest guarantee is not less than 1%.

Section 8B would reduce the resulting interest guarantee percentage from 1% to 0.15%.

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CLARIFICATION AND REAFFIRMATION OF RECOVERY OF OUT-OF-POCKET EXPENSES AND LITIGATION COSTS IN SUMMARY EJECTMENTS

G.S. 42-46 authorizes the recovery of certain late fees and eviction fees, including complaint-filing fees, court-appearance fees, and second trial fees, by a landlord in a summary ejectment proceeding.

Section 9 would clarify that certain fees associated with summary ejectment proceedings are administrative costs that may be recovered by a landlord in a summary ejectment. This section would also clarify that a landlord may only recover the out-of-pocket expenses or litigation costs for filing a summary ejectment that are expressly authorized in G.S. 42-46(i), which include filing fees charged by the court, costs for service of process, and reasonable attorneys' fees actually paid or owed, pursuant to a written lease and not to exceed 15% of the amount of monthly rent or owed by the tenant, as appropriate. This section would also clarify that "administrative fees" do not include out-of-pocket expenses, litigation costs, or other fees.

This section would be effective when it becomes law and is intended to apply retroactively to all pending controversies as of that date. The amendments contained in this section are intended to be clarifying of the General Assembly's intent under previous amendments to this statute.

CLARIFY RESIDENTIAL TENANCY WITH RESPECT TO TRANSIENT LODGING

The majority of Chapter 42, which governs landlord/tenant interactions, currently applies to all hotel guests regardless of the length of the guest's stay. Article 5 of Chapter 42, which governs residential rental agreements, does not apply to transient occupancy in a hotel, motel, or similar lodging.

Section 10 would provide that Chapter 42 does not apply to "transient occupancies" which would be defined as the "rental of an accommodation by an inn, hotel, motel, recreational vehicle park, campground, or similar lodging facility to the same guest or occupant for fewer than 90 consecutive days." Instead, "transient occupancies," as defined in this bill, would be governed by Chapter 72, Inns, Hotels, and Restaurants. Rental occupancies lasting 90 or more consecutive days would continue to be regulated under Chapter 42.

DISALLOW CERTAIN TRANSPORTATION RULES FROM BECOMING EFFECTIVE

Section 11 would prevent three rules adopted by the NC Department of Transportation on August 28, 2020 and approved by the Rules Review Commission on February 18, 2021 from becoming effective. These rules regulate the zoning, use, and repair of outdoor advertising signs.

ALLOW DISTILLERIES TO SELL SPIRITUOUS LIQUOR PRODUCED BY THE DISTILLER DIRECTLY TO CONSUMERS IN OTHER STATES

Section 12 would allow North Carolina distillers to sell and ship spirituous liquor directly to consumers in other jurisdictions, provided that the laws of that jurisdiction allow for direct-to-consumer sales of spirituous liquor. This section would also clarify that North Carolina distillers would not be allowed to sell and ship spirituous liquor directly to consumers in jurisdictions that require reciprocity for such sales. This section would also make a clarification regarding spirituous liquor produced by a holder of a distillery permit.

This section would become effective August 1, 2021 and apply to sales made on or after that date.

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WAIVER OF POST-CONSTRUCTION CONFERENCE FOR CERTAIN ENGINEERED WASTEWATER SYSTEMS

As a part of the engineer option permit process for the installation of engineered wastewater systems, the professional engineer designing the system is required to conduct a post-construction conference with the owner of the wastewater system, the licensed soil scientist or licensed geologist who performed the soil evaluations, the on-site wastewater system contractor who installed the system, the certified wastewater system operator, if any, and representatives from the local health department or Department of Health and Human Services, as applicable.

Section 12A would allow for a waiver of the post-construction conference for certain types of wastewater systems, listed in the bill, upon written request of the engineer and written approval of the owner of the wastewater system.

Section 12.1 would define "prefabricated permeable block panel system," which is a series of units used in onsite wastewater dispersal.

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