



HOUSE BILL 911: Regulatory Reform Act of 2022.

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

2021-2022 General Assembly

Committee:	Senate Agriculture, Energy, and Environment	Date:	May 24, 2022
Introduced by:	Reps. Riddell, Bradford, Moffitt, Yarborough	Prepared by:	Kyle Evans
Analysis of:	PCS to Fourth Edition H911-CSBR-28		Committee Counsel

OVERVIEW: House Bill 911 would amend various State laws related to State and local government, utilities, education, occupational licenses, and other regulations.

This Proposed Committee Substitute makes the following changes to the Fourth Edition:

- *Deletes Sections 1, 6, and 7, which have since become law.*
- *Deletes Section 2, Clarify Permit Requirements to Lease or Rent Residential Real Property.*
- *Deletes Section 4, Create Lottery Exemption for Grandchildren of Board Members.*
- *Deletes Section 10, Exempt Certified Reflexologists from Massage Board Oversight.*
- *Deletes Section 11.5, Establish the House Select Committee on Developmental Permitting and Fees.*
- *Removes water utility design information from the proposed public records exemption for sensitive public security information.*
- *Clarifies liability for onsite wastewater systems installed pursuant to the licensed soil scientist option for nonengineered systems.*
- *Exempts off-frame modular homes from certain design element requirements under the North Carolina Building Code.*
- *Extends a deadline for small municipalities to adopt comprehensive land-use plans.*
- *Amends applicability of Total Maximum Daily Load transport factor when offsetting permitted wastewater discharges for local governments.*

CURRENT LAW & BILL ANALYSIS:

CLARIFY REQUESTING BOARD FOR RESIDENCY LICENSE

[G.S. 115C-270.20](#) establishes the residency license for teachers – a one-year license, renewable twice for certain qualified teachers. The residency license must be requested by a local board of education and accompanied by a certification of supervision from a recognized educator preparation program in which the individual is enrolled.

Section 1 would clarify that charter school boards can request that an individual be issued a residency license.

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Director



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TOLLING THE TERMS OF CHARTERS TO ALLOW TIME TO OBTAIN LAND USE APPROVALS

Under current law, the State Board of Education may grant the initial charter to a charter school for a period not to exceed 10 years. The State Board of Education may place a charter school on governance non-compliance if it fails to maintain the minimum student enrollment stated in the charter application.

Section 2 would provide an automatic extension to the deadline to begin operations at a charter school if it notifies the State Board of Education that it is seeking land use or development approvals for its selected site or facilities, or if it is challenging the denial of any requested land use or development approvals. The term of the charter would be tolled during the extension period issued under this section.

AUTHORIZE SANITARY DISTRICTS TO CREATE, MAINTAIN, AND OPERATE PARKS AND RECREATION PROGRAMS AND FACILITIES

Sanitary districts are special purpose governments with taxing power and may also apply service charges and rates based upon the benefits derived. [G.S. 130A-55](#) authorizes sanitary districts to acquire, construct, maintain, and operate sewage collection, treatment, and disposal systems, as well as a broad variety of other utilities necessary for the preservation and promotion of public health and sanitary welfare. Sanitary districts are authorized to acquire (either through purchase, condemnation, or otherwise) interests in real property for the purposes of constructing or maintaining the works of the district. In addition, sanitary districts are authorized to acquire real property for the purposes of constructing medical clinics and operating non-profit cemeteries.

Section 3 would authorize sanitary districts to provide for the creation, maintenance, and operation of parks and recreation programs and facilities. However, sanitary districts would be prohibited from using the power of eminent domain to acquire real property for parks and recreation programs or facilities.

CLARIFY NC VETERINARY MEDICAL BOARD AUTHORITY TO ISSUE CERTAIN CIVIL PENALTIES

[G.S. 90-187.8](#) provides the NC Veterinary Medical Board (Board) with authority to impose and collect from "licensees" a civil penalty of up to \$5,000 for each violation of the veterinary licensing Article. [S.L. 2019-170](#) provided that in addition to the required veterinary license to practice veterinary medicine, no person may own a veterinary facility without having obtained a veterinary facility permit from the board.

Section 4 would provide that the Board may impose and collect from licensees and veterinary facility permittees a civil penalty of up to \$5,000 for each violation of the veterinary licensing Article.

STATE AUDITOR TECHNICAL CHANGE

[G.S. 143C-6-23](#) directs the Office of State Budget Management (OSBM) to adopt rules to ensure the uniform administration of State grants by all grantor State agencies. As a part of the uniform administration of State grants, State agencies are required to register each State assistance program under the agency, as well as program grantees and subgrantees, with the State. While the State Auditor used to receive those reports, OSBM's rules adopted in 2005, and readopted in 2016, direct State agencies to submit those reports to OSBM directly.

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Section 5 would eliminate outdated statutory language in the State Budget Act directing State agencies to register grant programs and recipients with the State Auditor's office.

CONFORMING CHANGE TO LEAD DUST STANDARDS

In December 2020, EPA announced it was undertaking rulemaking to lower the clearance levels for lead that can remain in dust on floors and windowsills after lead removal activities. This final rule became effective March 8, 2021, and can be found at 40 CFR Part 745 and the final rule appeared in the Federal Register at [86 FR 983](#).

Section 6 would conform the State standards for post-remediation lead dust clearance levels to the new federal standards. This section would become effective December 1, 2022.

SENSITIVE PUBLIC SECURITY INFORMATION PUBLIC RECORD CHANGES

[G.S. 132-1](#) broadly defines "public records" as "all documents, papers, letters, maps, books, photographs, films, sound records, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions."

The North Carolina Public Records Law provides that since public records and information compiled by the agencies of North Carolina government are the property of the people, it is therefore the policy of the State that people may obtain copies of these records unless the records are subject to a statutory exception that prevents their public disclosure.

[G.S. 132-1.7](#) excludes detailed plans and drawings of public buildings and infrastructure facilities from the definition of "public records."

Section 7 would broaden the exclusion from public records disclosure for detailed plans and drawings of public buildings and infrastructure facilities to include detailed plans and drawings contained in information storage systems or geographic information system (GIS) databases. Furthermore, it would exclude from disclosure as a public record the specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (both physical and virtual) for energy utilities. This section would also make technical and formatting changes to the existing exemptions in the statute, as well as conforming changes to applicable statutes.

CLARIFY LIABILITY FOR ONSITE WASTEWATER SYSTEMS INSTALLED PURSUANT TO LICENSED SOIL SCIENTISTS OPTION FOR NONENGINEERED SYSTEMS

[G.S. 130A-336.2](#) provides that an individual licensed as a soil scientist and certified as an Authorized On-Site Wastewater Evaluator may, at the direction of the owner of a proposed wastewater system, prepare the required evaluations, designs, and plans, for the construction, operation, and maintenance of a wastewater system installed pursuant to the section. This provision is modeled after [G.S. 130A-336.1](#), which gave the same authority to licensed engineers. Both options provide that the Department of Health and Human Services (DHHS), its authorized agents, and local health departments shall not be liable for wastewater systems installed pursuant to these options.

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Section 8 would amend a related wastewater statute, [G.S. 130A-335](#), to further clarify that DHHS, its authorized agents, and local health departments are not liable for systems designed and constructed pursuant to G.S. 130A-336.2.

EXEMPT OFF-FRAME MODULAR HOMES FROM CERTAIN DESIGN ELEMENTS REQUIRED BY THE NORTH CAROLINA BUILDING CODE

A modular home is statutorily defined as a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with State Residential Building Code specifications for modular homes, and bears a seal or label issued by the Department of Insurance pursuant to [G.S. 143-139.1](#).

To qualify for a label or seal signifying manufacture in compliance with the State Building Code, a modular home intended for single-family use must comply with certain requirements for roof pitch, eave projection, minimum height of the first-story exterior wall, siding and roofing materials, and foundations, as set forth in G.S. 143-139.1(a).

Section 9 would amend G.S. 143-139.1(a) by making it applicable only to single-family modular homes that are built on a frame. Modular homes that are not built on a frame would not have to meet the requirements set forth in this subsection to be certified as having been manufactured in compliance with the State Residential Building Code.

EXTEND DEADLINE FOR SMALL MUNICIPALITIES TO ADOPT COMPREHENSIVE LAND-USE PLANS

[S.L. 2019-111](#) made various changes to the land-use regulatory laws of the State, including reorganizing and consolidating existing statutes governing local government regulation of land planning and development into a new [Chapter 160D](#). Section 2.9(c) of S.L. 2019-111 provided that any local government that has adopted zoning regulations but had not yet adopted a comprehensive plan must adopt such a plan no later than July 1, 2022.

Section 10 would extend the deadline to adopt a comprehensive plan to July 1, 2023 for municipalities with a population of 1,500 or less.

APPLY THE TMDL TRANSPORT FACTOR WHEN OFFSETTING PERMITTED WASTEWATER DISCHARGES FROM LOCAL GOVERNMENTS IN THE NEUSE RIVER BASIN

Section 15 of [S.L. 2020-18](#) provides 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 applies 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 11 would remove the cap of 15,000 connections for local governments located in the Neuse River Basin.

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