



# HOUSE BILL 911: Regulatory Reform 2.0.

2021-2022 General Assembly

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<b>Committee:</b>	House Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	June 23, 2021
<b>Introduced by:</b>	Reps. Riddell, Bradford, Moffitt, Yarborough	<b>Prepared by:</b>	Trina Griffin
<b>Analysis of:</b>	Second Edition		Staff Attorney

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**OVERVIEW:** *House Bill 911 would amend various State laws related to State and local government, utilities, education, occupational licenses, and other regulations. The following sections are the Finance-related items:*

- *Section 8 would authorize Tabor City to levy property tax for purposes of providing matching funds to participate in State and federal railroad revitalization programs. All counties currently have this authority.*
- *Section 9 would expand the powers of a sanitary district by allowing it to create, maintain, and operate parks and recreation programs and facilities, but they would specifically be prohibited from exercising eminent domain for this purpose. To the extent sanitary districts have taxing power, this would be an additional purpose for which a district may levy a tax.*

## CURRENT LAW & BILL ANALYSIS:

### MODIFY AUTOMATIC SPRINKLER REQUIREMENTS FOR ONE- AND TWO-FAMILY DWELLINGS

The North Carolina Building Code [requires](#) two separate and approved fire apparatus access roads for one- or two-family developments where the number of dwelling units exceeds 30, except two-direction access is not required on a single public or private fire apparatus access road when the dwellings are equipped with approved automatic sprinkler systems.

**Section 1** would provide that automatic sprinkler systems in one- or two- family dwellings would not be required where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction. This section directs the North Carolina Building Code Council to develop a rule consistent with this section. This section would expire on the date that the rules adopted pursuant to this Section become effective.

The House passed this identical provision in H489, 2021 Building Code and Dev. Reg. Reform, on May 10, 2021, which is currently in Senate Rules.

### CLARIFY PERMIT REQUIREMENTS TO LEASE OR RENT RESIDENTIAL REAL PROPERTY

Chapter 160D authorizes local governments to adopt planning and development regulations. Article 11 of Chapter 160D authorizes local governments to adopt ordinances to enforce the State Building Code, including the authority to issue permits, conduct inspections, and charge fees. Article 12 of Chapter 160D authorizes local governments to adopt a minimum housing code to ensure that dwellings are fit for human habitation, including the authority to exercise police powers to inspect, repair, close, or demolish the dwellings.

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[G.S. 160D-1207\(c\)](#) limits the authority of local governments to regulate residential real property rentals. Local governments are prohibited from adopting ordinances under Article 11 (building code) or Article 12 (minimum housing code) requiring owners of rental property to obtain permits to rent residential real property.

**Section 2** would prohibit a local government from adopting or enforcing an ordinance requiring a permit or registration system to lease or rent residential real property, and would provide that this prohibition is not limited to ordinances adopted under Article 11 (building code enforcement) or Article 12 (minimum housing code enforcement) of Chapter 160D of the General Statutes.

This section would become effective October 1, 2021, and any inconsistent ordinance or policy would be void and unenforceable on or after that date.

## **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 3** would clarify that charter school boards can request that an individual be issued a residency license.

## **CREATE LOTTERY EXEMPTION FOR GRANDCHILDREN OF BOARD MEMBERS**

[G.S. 115C-218.45\(f\)](#) provides that charter schools may give enrollment priority to certain classes of students, which would exempt these students from having to enter the enrollment lottery when the number of applicants exceed the school's capacity. Currently, the children of a charter school's board members are given enrollment priority to that charter school.

**Section 4** would expand this exception to the enrollment lottery to allow for the grandchildren of a charter school's board members to be given enrollment priority to that charter school.

## **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 5** would provide automatic extensions 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.

## **UTILITIES/LANDLORD WATER RESELLER CHANGES**

For the purpose of encouraging water conservation, [G.S. 62-110\(g\)](#) authorizes the Commission to adopt procedures that allow a lessor to charge for the costs of providing water or sewer service to persons who occupy a leased premises. The statute requires that all charges for water or sewer service be based on the user's metered consumption of water, which must be determined by metered measurement of all water consumed.

The Commission has [determined](#) that based on the current wording of the statute that governs a lessor's provision of water or sewer service to lessees, a lessor may not equally divide the actual amount of the water service bill for a unit among all the lessees in a unit and bill each lessee accordingly (as authorized under the statutes for lessors as it concerns electric or natural gas service), but rather a lessor must charge each lessee in a unit based on the lessee's meter consumption of water.

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**Section 6** would authorize the Commission to adopt procedures to allow a lessor of leased residential premises (including houses, buildings, mobile homes, and apartments leased for residential purposes) to equally divide the amount of a water and sewer bill for a unit among all the lessees in the unit and bill each lessee accordingly. This section would also make conforming technical changes to the landlord reseller provisions concerning electricity and natural gas service.

**Section 6** further provides:

- The amount charged must be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period.
- Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in [Rule 18-6](#) for water service and, when applicable, a late fee in an amount determined by the Commission.
- The lessor may not include the cost of water and sewer from any other unit or common area in a lessee's bill.

This section would become effective October 1, 2021.

## DISPENSING OPTICIAN PRACTICE MODIFICATIONS

[G.S. 90-236](#) provides that the following practices, when done for pay or reward, constitute practicing as a dispensing optician:

- Interpreting prescriptions issued by licensed physicians and optometrists.
- Fitting glasses on the face.
- Servicing glasses or spectacles.
- Fitting frames and measuring of patient's face.
- Compounding and fabricating lenses and frames, and any therapeutic device used or employed in the correction of vision.
- Aligning frames to the face of the wearer.

**Section 7** would provide that the following actions do not constitute practicing as a dispensing optician:

- Selecting frames.
- Placing an order for the delivery of an optical aid.
- Transacting a sale.
- Transferring an optical aid to the wearer after an optician has completed fitting it.
- Making minor repairs to glasses or spectacles.
- Providing instruction in the general care and use of an optical aid, including placement, removal, hygiene, or cleaning.

**Section 7** also does all of the following:

- Provides that in order for an applicant to be issued a license as a registered dispensing optician by the North Carolina State Board of Opticians (Board), the applicant must have passed a national examination conducted by the Board to determine his or her fitness to engage in the business of a dispensing optician.
- Provides that if the applicant seeks certification as a contacts lens fitter, the applicant must have passed a national examination selected by the Board to determine fitness to engage in the business of a contact lens fitter.

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- Removes the requirement that an applicant seeking certification as a registered dispensing optician must have completed a six-month internship by working full-time under the supervision of a licensed optician, optometrist, or physician trained in ophthalmology.
- Shortens the required apprenticeship period that an applicant for licensure as a dispensing optician or contact lens fitter would have to undertake if the applicant did not complete a two-year opticianry course with a minimum of 1600 hours of training.
- Eliminates the requirement that the national exam selected by the Board test on the processes by which the products offered by dispensing opticians are manufactured.
- Provides that the Board will credit an applicant who is certified by the American Board of Opticianry (ABO) or National Contact Lens Examiners (NCLE) with completing the applicable North Carolina examination to the extent that the ABO and NCLE exams are accepted by the Board.
- Provides that the Board shall grant a license without examination for a dispensing optician who (i) holds a license in good standing in another state, or (ii) is certified by the American board of Opticianry, National Contact Lens Examiners, or other nationally recognized organization that certifies opticians and has been engaged in the practice of opticianry in a state that does not license opticians for at least two of the four years preceding application to the Board.
- Provides an exception to the requirement that a licensed optician be present during all hours in which acts constituting the business of opticianry occur, allowing for usual and customary absences of a licensed optician for illness, meal breaks, and meetings away from the establishment.

This section would become effective October 1, 2021.

## **AUTHORIZE TABOR CITY TO PARTICIPATE IN RAILROAD REVITALIZATION PROGRAMS**

Under current law, counties are authorized to participate in State and federal railroad revitalization programs, and enter into contracts with the North Carolina Department of Transportation to provide nonfederal matching funds for railroad revitalization programs. Also, county governments are authorized to levy local property taxes for railroad revitalization. However, such county funds for any project may not exceed 10% of total project costs ([G.S. 153A-244](#)).

[G.S. 160A-209\(c\)](#) authorizes cities to levy property taxes for the purpose of acquiring property for railroad corridor preservation, and to provide public transportation by rail.

**Section 8** authorizes Tabor City to participate in State and federal railroad revitalization programs, and enter into contracts with the North Carolina Department of Transportation to provide nonfederal matching funds for railroad revitalization programs. Also, Section 8 authorizes Tabor City to levy local property taxes for railroad revitalization. However, such city funds for any project may not exceed 10% of total project costs.

This section would become effective when it becomes law and would expire December 31, 2026.

## **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

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authorized to acquire real property for the purposes of constructing medical clinics and operating non-profit cemeteries.

**Section 9** 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.

## **SENSITIVE PUBLIC SECURITY INFORMATION PUBLIC RECORDS 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 particular 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 10** would broaden this exclusion from public records disclosure for detailed plans and drawings of public buildings and infrastructure facilities to include detailed plans and drawings contained in or capable of being produced from 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, water, and wastewater utilities. This section would also make technical and formatting changes to the existing exemptions in the statute.

## **HEARING PROHIBITED FOR CERTAIN TITLE V PERMIT MODIFICATIONS**

Title V of the federal Clean Air Act requires that major sources of air pollutants, as well as certain other sources, obtain an operating permit. The North Carolina Department of Environmental Quality (DEQ) is the statewide permitting agency authorized by the U.S. Environmental Protection Agency to issue Title V permits in the State. [Article 21B of Chapter 143 of the General Statutes](#) grants the Environmental Management Commission the authority to adopt rules establishing the procedures for granting or denial of Title V permits and renewals, including the authority to establish procedures for providing public notice, public comment, and public hearings on applications for Title V permits.

**Section 11** would prohibit the Environmental Management Commission from imposing public hearing and public notice requirements when an applicant seeks a modification of an existing air permit to reclassify a facility from a major source to a minor source under either the Prevention of Significant Deterioration Program or emission of hazardous air pollutants.

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

*\*Staff Attorneys Jennifer McGinnis, Jeremy Ray, Kyle Evans, and Aaron McGlothlin substantially contributed to this summary.*