



HOUSE BILL 177: DEQ Omnibus.

2023-2024 General Assembly

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| Committee: | House Rules, Calendar, and Operations of the House | Date: | April 26, 2023 |
| Introduced by: | Reps. K. Hall, Iler | Prepared by: | Chris Saunders Staff Attorney |
| Analysis of: | Second Edition | | |

OVERVIEW: *House Bill 177 would make the following changes to the statutes governing the Department of Environmental Quality (DEQ):*

- *Reduce the frequency of a DEQ report on coal combustion residuals surface impoundments from quarterly to annually.*
- *Authorize DEQ to make beneficial use determinations to determine whether nonhazardous solid waste may be used or reused at a particular site or application as an alternative to disposal at a permitted solid waste management facility.*
- *Codify the Local Assistance for Stormwater Infrastructure Investments Fund, which was established by session law in 2021.*
- *Allow emergency grants from the Viable Utility Reserve to be awarded to a local government for more than three consecutive years.*
- *Increase the period for which State agencies may interchange an employee with other State agencies, another state, or the federal government from two years to four years if the sending agency and receiving agency agree.*

CURRENT LAW AND BILL ANALYSIS:

COAL COMBUSTION RESIDUAL REPORT REVISION

Since 2014, DEQ has been required to submit quarterly written reports to the Environmental Review Commission on its operations, activities, programs, and progress with respect to its obligations concerning coal combustion residuals surface impoundments.

Section 1 would change the quarterly reports on coal combustion residuals surface impoundments to an annual report, due no later than October 1 of each year. This section would also allow DEQ to combine this report with a required annual report to members of the General Assembly who have a coal combustion residuals surface impoundment in the member's district.

SOLID WASTE BENEFICIAL REUSE CLARIFICATION

"Recovered material" is defined as "material that has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse." Under current law,

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recovered material is not subject to regulation as solid waste, but must be managed as a valuable commodity in a manner consistent with the desired use or end use, subject to several conditions.

Section 2 would clarify that recovered materials are not subject to permitting requirements for solid waste. DEQ would be authorized to require any person who owns or has control over such materials to obtain a beneficial use determination from DEQ. The person would submit an application to DEQ, who may either authorize management of a specified type of nonhazardous solid waste at a site other than a permitted solid waste management facility or issue a beneficial use determination with appropriate conditions for use of specific types of solid waste in construction, land application, or other applications. DEQ could require submittal of a demonstration that the solid waste is being managed in a manner to protect public health or the environment, and may require periodic testing or conditions to ensure that the product or by-products of the materials are not discharged into any land or water in such a way as to enter the environment and threaten the public health and safety. Beneficial use approvals would expire after five years at most, but could be renewed.

This section would become effective October 1, 2023.

CODIFY LASII IN WATER INFRASTRUCTURE FUND

Section 12.14 of the 2021 Appropriations Act (S.L. 2021-180) directed DEQ to establish the Local Assistance for Stormwater Infrastructure Investments Fund (LASII Fund) as a special fund, for the purpose of providing grants to eligible entities for projects that will improve or create infrastructure for controlling stormwater quantity and quality. An eligible entity is a city or county that (i) documents in a form and manner as DEQ may specify a stormwater quality or quantity issue and (ii) demonstrates that it would experience a significant hardship raising the revenue necessary to finance stormwater management activities within its jurisdiction based on income and unemployment data, population trends, and any other data determined relevant by DEQ. This was enacted in uncodified language.

Section 3 would codify the LASII Fund as an account within the Water Infrastructure Fund. It would have the same purpose as in the uncodified law, and the same entities would be eligible for grants from the LASII Fund.

This section would become effective October 1, 2023.

REMOVE TIME LIMITS ON CERTAIN VUR GRANTS

The Viable Utility Reserve (VUR) is an account within the Water Infrastructure Fund established to receive appropriated State funds to be used for grants to local government units for any of the following purposes:

- Providing physical interconnection and extension of public water or wastewater infrastructure to provide regional service.
- Rehabilitating existing public water or wastewater infrastructure.
- Decentralizing an existing public water system or wastewater system into smaller viable parts.
- Funding a study of rates, asset inventory and management, or merger and regionalization options.
- Funding other options deemed feasible which result in local government units generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.

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- Providing emergency grants for operating deficits if the Local Government Commission has exercised its powers under G.S. 159-181 to assume full or partial control over the affairs of the public water or wastewater system or of the local government unit or public authority that owns or operates the public water or wastewater system.

Under current law, emergency grants from the VUR for operating deficits to any single local government may not exceed \$750,000 in any fiscal year and may not be awarded for more than three consecutive fiscal years.

Section 4 would allow emergency grants from the VUR to be awarded for more than three consecutive fiscal years.

This section would become effective July 1, 2023.

EXTEND LIMIT ON INTERGOVERNMENTAL PERSONNEL ACT AGREEMENTS

Under current law, State agencies may participate in a program to interchange employees with other agencies of this State, another state, or the federal government, for up to two years.

Section 5 would allow an interchange period to be extended for an additional two years if the sending agency and receiving agency agree.

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