



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

HOUSE BILL 28: NC Managing Environmental Waste Act of 2023.

2023-2024 General Assembly

Committee:	House Environment. If favorable, re-refer to Regulatory Reform. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	February 7, 2023
Introduced by:	Rep. Warren	Prepared by:	Aaron McGlothlin
Analysis of:	First Edition		Committee Counsel

OVERVIEW: House Bill 28 would enact several measures related to food service ware as follows:

- Allocate 5% of the revenue generated by the solid waste disposal tax to cities and counties in the State that provide plastics recycling services and food service ware reduction programs within their jurisdictions.
- Restore certain annual reporting requirements concerning the amounts and types of materials and supplies with recycled content purchased and the amounts and types of materials collected for recycling by State agencies, community colleges, and local school administrative units.
- Require the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources (Committee) to study the issue of food service ware.
- Require the Legislative Services Officer to evaluate and implement opportunities to reduce the use of food service ware in food establishments operated by the General Assembly.
- Require the Division of Services for the Blind, within the Department of Health and Human Services to implement a pilot program to eliminate the use of food service ware at five food service establishments operated under its Business Enterprise Program.

BILL ANALYSIS:

Section 1: Under current law, a tax of \$2 per ton is imposed on waste disposed of in municipal solid waste and construction and demolition debris landfills. The proceeds of the tax are distributed as follows:

- 50% of the proceeds must be credited to the Inactive Hazardous Sites Cleanup Fund, and the Secretary of the Department of Environmental Quality is required to fund assessment and cleanup of pre-1983 landfills (aka "pre-reg" and "orphan" landfills).
- 37.5% to cities and counties in the State on a per capita basis solely for solid waste management programs and services.
- 12.5% to the General Fund.

Section 1 of the bill would modify the 12.5% allocation currently given to the General Fund, to allocate 5% of the proceeds to cities and counties that provide plastics recycling services within their jurisdictions and 7.5% of the proceeds to the General Fund. Specifically, funds distributed must be used for plastics

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recycling and food service ware waste reduction programs and services, including for the procurement of alternatives to food service ware to be used by the city or county.

Section 2 of the bill would restore certain reporting requirements applicable to State agencies, community colleges, and local school administrative units concerning the amounts and types of materials and supplies with recycled content purchased annually by these entities, and the amounts and types of materials collected for recycling annually by these entities. The Department of Environmental Quality (DEQ) would be required to report this data to the Environmental Review Commission (ERC) and the Joint Legislative Commission on Governmental Operations. These reporting requirements were repealed in 2009 and 2010.

Section 3 of the bill would direct the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources to study the issue of food service ware, including examination of all the following matters:

- The environmental impacts of plastics pollution.
- The State's current requirements for plastics recycling.
- Estimates of the proportionate volume of plastics recycled versus plastics disposed of in landfills in the State.
- Recycling markets and available information on the fate of plastics collected for recycling in the State, including data on plastics used as feedstock for in-State recycling, and national and international markets.
- Pending and enacted legislation in other states to regulate food service ware, including bans on specific types of food service ware.
- The impact that bans on specific types of food service ware have had on people with disabilities.
- Current private sector initiatives to reduce plastics pollution and additional financial and market tools that may be employed by private sector interests for this purpose.
- Alternatives to use of food service ware for serving or transporting food and beverages.
- New technologies for plastics recycling and waste reduction.

The bill would require the Committee to consult with stakeholders in conducting the study, including DEQ, the Department of Health and Human Services, the Department of Administration, representatives of the environmental community, the North Carolina Retail Merchants Association, and the North Carolina Beverage Association. The Committee would be required to report its findings and recommendations, including any legislative proposals, to the 2024 Regular Session of the 2023 General Assembly upon its convening.

Section 4 would require:

- The Legislative Services Officer to evaluate all opportunities to reduce the use of food service ware in food establishments operated by the General Assembly and implement such measures at the earliest date that (i) does not result in disposal, prior to use, of food service ware already procured on the date this act becomes law and (ii) does not impair contracts for purchase of such food service ware in effect on the date this act becomes law. The Legislative Services Officer must issue a preliminary report on implementation of the requirements of this section to the ERC no later than September 1, 2023, and provide a final report to the ERC no later than March 1, 2024.

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- The Division of Services for the Blind to implement a pilot program to eliminate the sale or provision of food or beverages in or with food service ware, for consumption on or off the premises, at State agencies or agencies of a political subdivision of the State that is using State funds. In implementing this pilot, the Division must identify five food service establishments operated under its Business Enterprise Program to implement measures to eliminate food service ware at the earliest possible date that (i) does not result in disposal, prior to use, of food service ware already procured by the agency on the date this act becomes law and (ii) does not impair contracts for purchase of such food service ware in effect on the date this act becomes law. The Division must issue a preliminary report on implementation of the requirements of this section to the ERC no later than September 1, 2023, and provide a final report to the ERC no later than March 1, 2024.

For purposes of this act, the term "food service ware" means noncompostable products used by a food service provider that are designed for one-time use for serving or transporting prepared, ready-to-consume food or beverages, including plates, cups, bowls, trays, utensils, straws, cup lids, and hinged or lidded containers.

EFFECTIVE DATE: Section 1 of the bill would become effective July 1, 2024. The remainder of the bill would be effective when it becomes law.