HOUSE BILL 600:
Regulatory Reform Act of 2023.

2023-2024 General Assembly

Committee:		**Date:**	September 21, 2023
Introduced by:	Reps. Riddell, Zenger, Brody, Chesser	**Prepared by:**	Kyle Evans Jennifer McGinnis Aaron McGlothlin Staff Attorney
Analysis of:	Conference Committee Substitute (H600-CCSRI-4)		

OVERVIEW: House Bill 600 would amend State laws related to State and local government, agriculture, energy, environment, natural resources, and other various regulations.

CURRENT LAW & BILL ANALYSIS:

PART I. AGRICULTURE, ENERGY, ENVIRONMENT, AND NATURAL RESOURCES PROVISIONS

STORMWATER PERMITTING MODIFICATIONS (SECTIONS 1–4)

G.S. 143-214.7 governs requirements for stormwater control.

- In 2015, the General Assembly enacted legislation to provide that development may occur within an area that would otherwise be required to be placed within a vegetative buffer required by statute to protect classified shellfish waters, outstanding resource waters, and high-quality waters provided the stormwater runoff from the development is collected and treated from the entire impervious area and discharged so that it passes through the vegetative buffer and is managed so that it otherwise complies with all applicable State and federal stormwater management requirements.
- In 2017, the General Assembly modified that legislation to provide that when a preexisting development is redeveloped, either in whole or in part, increased stormwater controls may only be required for the amount of impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment.
- In 2021, language was added to provide that a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities for the purpose of exceeding allowable density under the applicable water supply watershed rules[1].

[1] Under State law, the Environmental Management Commission (EMC) is required to assign each water supply watershed in the State an appropriate classification and applicable minimum management requirements. In addition, every local government that has within its jurisdiction all or a portion of a water supply watershed must adopt and implement a water supply watershed protection program that complies with the minimum standards adopted by the EMC (see applicable rule) that: (i) controls development density within the watershed and (ii) provides for performance-based alternatives to development density controls that are based on sound engineering principles.

WATER SUPPLY WATERSHED PROTECTION CHANGES

Section 1 would modify the statutory provision authorizing a property owner to voluntarily elect to treat all stormwater from preexisting development or redevelopment for the purpose of exceeding allowable density under the applicable water supply watershed rules to either:

- Eliminate the requirement that a property treat all stormwater from preexisting development or redevelopment activities to exceed allowable density under the applicable water supply watershed rules.
- Require that the property owner treat the increase in stormwater resulting from the net increase in built upon areas, to exceed allowable density under the applicable water supply watershed rules.

STORMWATER PROGRAM CHANGES

Section 2 would:

- Modify the statutory provision governing development in the vegetative buffer to provide that the entire impervious area of a development shall not include any portion of a project that is within a Department of Transportation or municipal right-of-way.
- Modify the language providing that when a preexisting development is redeveloped, either in whole or in part, increased stormwater controls may only be required for impervious surface being created that exceeds the amount of impervious surface that existed before the redevelopment irrespective of whether the impervious surface that existed before the redevelopment is to be demolished or relocated during the development activity.
- Make a conforming change to the water supply watershed statute regarding changes made in Section 1 of this act allowing a property owner to treat only the stormwater resulting from the net increase in built-upon areas.
- Add a new provision to allow an applicant for a new stormwater permit, or a reissuance of a permit due to transfer, modification, or renewal, to submit that application, at the applicant's option to a unit of local government with permitting authority in the relevant jurisdiction, or to any local government in a joint stormwater program where a local government in the joint program has permitting authority in the relevant jurisdiction.
- Add a new provision that would prohibit the Department of Environmental Quality (DEQ) from:
    - Requiring an applicant for a new permit to take any action with respect to an unaffiliated adjacent property.
    - Conditioning issuance of a new permit on action to be taken by an existing permit-holder with respect to permitting of an unaffiliated adjacent property.

  For purposes of this section, "unaffiliated adjacent property" means a property: (i) for which the applicant does not have, and has not had, an ownership interest; (ii) that is not subject to a permit issued pursuant to this section that also governs the property for which the new permit is sought.
- Require DEQ to rescind a stormwater permit without the consent of the permit-holder where the permitted development has not been initiated within five years after the date of permit issuance. No less than 90 days prior to recission of the permit, DEQ would be required to notify the permit-holder of its intent to rescind the permit, and allow the permit- holder 60 days in which to respond and request an extension of the permit.

AMEND STORMWATER FEE CONSIDERATIONS

The statutes authorize cities to establish fees for stormwater management programs and structural and natural stormwater and drainage systems, which under current law may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system.

Section 3 would add stormwater control measures in use by the property as a basis on which stormwater fees may vary.

EXEMPTION FROM REQUIREMENTS OF POST-CONSTRUCTION STORMWATER RULE

Section .1000 of 15A NCAC 02H establishes post-construction stormwater requirements for certain development projects. 15A NCAC 02H .1001 (Post Construction Stormwater Management: Purpose and Scope) sets forth various exemptions from the section's requirements, including linear transportation projects undertaken by an entity other than the NCDOT, when:

- The project is constructed to NCDOT standards and is in accordance with the NCDOT Stormwater Best Management Practices.
- Upon completion, the project will be conveyed either to the NCDOT or another public entity and will be regulated in accordance with that entity's NPDES MS4 stormwater permit; and
- The project is not part of a common plan of development.

Section 4 would require the Environmental Management Commission to modify 15A NCAC 02H .1001 to strike the reference to "common plan of development" in the exemption described above, thereby allowing an exemption for public linear transportation projects undertaken by an entity other than the North Carolina Department of Transportation, which are part of a common plan of development (and comply with the other two criteria), from requirements under the rule. Under those rules, the following relevant definitions apply:

- "Public linear transportation project" means a project consisting of a road, bridge, sidewalk, greenway, or railway that is on a public thoroughfare plan or provides improved access for existing development and that is owned and maintained by a public entity.
- "Common plan of development" means a site where multiple separate and distinct development activities may be taking place at different times on different schedules but governed by a single development plan regardless of ownership of the parcels. Information that may be used to determine a "common plan of development" include plats, blueprints, marketing plans, contracts, building permits, public notices or hearings, zoning requests, and infrastructure development plans.

MODIFY CERTAIN RULES RELATED TO DEVELOPMENT DENSITY IN WATER SUPPLY WATERSHEDS, AS APPLICABLE IN IREDELL COUNTY AND THE TOWN OF MOORESVILLE

Pursuant to State law, the Environmental Management Commission (EMC) is required to assign each water supply watershed in the State an appropriate classification and applicable minimum management requirements. In addition, every local government that has within its jurisdiction all or a portion of a water supply watershed must adopt and implement a water supply watershed protection program that complies

with the minimum standards adopted by the EMC (see applicable rule) that: (i) controls development density within the watershed and (ii) provides for performance-based alternatives to development density controls that are based on sound engineering principles.

15A NCAC 02B .0624(7) authorizes local governments to exercise the "10/70 option" whereby a maximum of 10 percent of the land area of a water supply watershed outside of the critical areas may be developed up to 70 percent built-upon area.

Section 5 would direct the EMC to implement 15A NCAC 02B .0624 to authorize Iredell County and the Town of Mooresville to regulate development in water supply watersheds within their planning jurisdiction so that a maximum of 20 percent of the land area of a water supply watershed outside of the critical areas may be developed up to 70 percent built-upon area.

PHASED IN MANDATORY COMMERCIAL AND RECREATIONAL REPORTING OF CERTAIN FISH HARVESTS

Section 6 would require that any person holding a recreational fishing license that harvests red drum, flounder, spotted seatrout, striped bass, or weakfish from coastal fishing waters, joint fishing waters, or inland fishing waters adjacent to coastal fishing waters must report that harvest to the Division of Marine Fisheries (DMF). Additionally, any person holding a commercial fishing license engaged in a commercial fishing operation who harvests any fish, regardless of sale, would be required to report that harvest to DMF. The Department of Environmental Quality (DEQ) and the Wildlife Resources Commission (WRC) would be required to adopt rules to implement this section. Both DEQ and WRC would be required to report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources no later than May 1 of each year on the implementation and response to the fishery reporting requirements imposed by this section, as well as on potential incentives to encourage reporting.

This section would become effective December 1, 2024. Violations of this section would be punishable only by a verbal warning beginning December 1, 2024. Beginning December 1, 2025, violations would be punishable by issuance of a warning ticket. Beginning December 1, 2026, violations would be punishable as an infraction with a fine of no more than $35 and provide that DMF or WRC, as appropriate, may suspend, revoke, or refuse to reissue fishing licenses for repeat violations or refusal to pay the fine.

ESTABLISH CERTAIN REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR CERTAIN DREDGING PROJECTS OR FOR PROJECTS INVOLVING THE DISTRIBUTION OR TRANSMISSION OF ENERGY OR FUEL

Under Section 401 of the Clean Water Act (Section 401), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a state where a discharge from the activity would originate issues or waives a Section 401 water quality certification, which concerns whether the discharge will comply with applicable water quality standards, effluent limitations, toxic pollutants restrictions and other appropriate water quality requirements under state and federal law. Section 401 provides that if a state "fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year)" after receipt of a certification request, the certification is deemed waived by the State. A state may not only waive, deny, or grant certification, but also grant certification with conditions.

Examples of permits for activities that trigger 401 certification requirements include:

- Clean Water Act Section 404 permits issued by the United States Army Corps of Engineers involving the discharge of dredged or fill material.
- Federal Energy Regulatory Commission (FERC) licenses for hydropower facilities and natural gas pipelines.

As of the date of this summary, the United States Environmental Protection Agency has pending regulations governing states' issuance of 401 certifications, which include, among other things, a requirement that states consider activity "as a whole," rather than just point source discharges from a proposed project.

Section 7 of the bill would establish statutory requirements for DEQ's handling of applications for 401 certifications for maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund and projects involving the distribution or transmission of energy or fuel, including natural gas, diesel, petroleum, or electricity, including requiring DEQ to:

- Within 30 days of filing of an application, determine whether or not the application is complete and notify the applicant accordingly; and, if the Department determines an application is incomplete, specify all such deficiencies in the notice to the applicant. If DEQ fails to issue a notice as to whether the application is complete within the requisite 30-day period, the application would be deemed complete.
- Within 5 days of the date the application is deemed complete, issue a public notice soliciting comment on the application. Within 60 days of the filing of a completed application, DEQ must either approve or deny the application. Failure of DEQ to act within the requisite 60-day period would result in a waiver of the certification requirement by the State, unless the applicant agrees, in writing, to an extension of time, not exceed one year from the State's receipt of the application for certification. The 60-day review period established would constitute the "reasonable period of time" for State action on an application for purposes of federal law, absent a negotiated agreement with the United States Environmental Protection Agency (USEPA) to extend that timeframe for a period not to exceed one year.
- Issue a certification upon determining that the proposed discharge into navigable waters would comply with State water quality requirements. DEQ must include as conditions in a certification any applicable effluent limitations or other limitations necessary to assure the proposed discharges into navigable waters will comply with State water quality requirements. DEQ may not impose any other conditions in a certification.
- Deny a certification application only if DEQ determines that no reasonable conditions would provide assurance that the proposed discharges will comply with State water quality requirements and include in the denial a statement explaining the determination.

This section would be effective when it becomes law and apply to applications for 401 Certification pending or submitted on or after that date.

ENVIRONMENTAL MANAGEMENT COMMISSION TO STUDY NARRATIVE WATER QUALITY STANDARDS

The federal Clean Water Act requires states to establish water quality standards for regulated water bodies within their jurisdiction. Water quality standards may consist of numeric or narrative criteria designed to protect designated uses of the waterbody in question.

15A NCAC 02B .0208 (Standards for Toxic Substances and Temperature) sets forth narrative water quality standards for toxic substances, and includes methodologies by which DEQ may establish numeric water quality standards for specific pollutants.

Section 8 would require the Environmental Management Commission (EMC) to review 15A NCAC 02B .0208 to determine if the standards and methodologies for establishment of numeric water quality standards for specific pollutants included in the rule are scientifically sound, protective of human health and the environment, and result in water quality criteria that are technologically achievable without placing undue economic burdens on publicly-owned treatment works and their ratepayers. In its review, the EMC must examine: (i) other states' narrative water quality standards, and identify other states with more stringent and less stringent narrative standards; and (ii) requirements established by USEPA for development of narrative and numeric water quality standards by states, as well as any discretion given to states to set these standards. The Commission must report its findings to the Joint Legislative Commission on Governmental Operations no later than June 1, 2024.

DIRECT DEPARTMENT OF ENVIRONMENTAL QUALITY TO PREPARE A HUMAN HEALTH RISK ASSESSMENT FOR 1,4-DIOXANE IN DRINKING WATER AND EVALUATE COMMERCIALLY AVAILABLE TECHNOLOGY TO REMOVE 1,4 DIOXANE FROM WASTEWATER EFFLUENT

Section 9(a) would direct DEQ to prepare a human health risk assessment of 1,4-dioxane in drinking water supported by peer-reviewed scientific studies. The Department would be required to deliver the assessment to the Joint Legislative Commission on Governmental Operations no later than May 1, 2024.

Section 9(b) would direct the North Carolina Collaboratory to evaluate the technologies that are commercially available to remove 1,4-dioxane from wastewater effluent at facilities at various flow volumes, including at flow volumes of greater than 1 million gallons per day. The Department would be required to report its findings of the technical and economic feasibility and limitations of each treatment technology and a cost benefit analysis to the Joint Legislative Commission on Governmental Operations no later than May 1, 2024.

SHALLOW DRAFT NAVIGATION CHANNEL DREDGING AND AQUATIC WEED FUND CHANGES

The Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund is a special fund in DEQ to provide the State's share of costs associated with any dredging project designed to keep shallow draft navigation channels located in State waters or waters of the State located within lakes navigable and safe and for aquatic weed control projects. The Fund may also be used to provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway between the border with the state of South Carolina and the border with the Commonwealth of Virginia, under a Memorandum of Agreement between the State and the federal government.

Section 10 would:

- Repeal the authorization for funds in the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund to be used to provide funding for siting and acquisition of dredged disposal easement sites associated with the maintenance of the Atlantic Intracoastal Waterway between the border with the state of South Carolina and the border with the Commonwealth of Virginia, and instead allow funds to be used for the siting and acquisition of dredged disposal sites.

- Require that any invoices submitted to the Secretary for reimbursement or payment from the Fund for eligible dredging projects must be signed by the representative of the unit of local government sponsoring the project.
- Clarify that the term "shallow draft navigation channel" means a waterway connection with a maximum depth of 18 feet, including the depth of overdepth for navigational depth compliance, and includes Mason Inlet, Rich Inlet, Tubbs Inlet, and the Southport Small Boat Harbors.

PROHIBIT DREDGING MORATORIUM PERIODS NOT OTHERWISE REQUIRED BY FEDERAL LAW

Section 10.5 would prohibit DEQ, with respect to permits issued for dredging activities under the Coastal Area Management Act (CAMA), from including any condition that restricts dredging activities to a specified timeframe, except those timeframes, or moratorium periods, that are required pursuant to the federal Clean Water Act and Endangered Species Act, regulations promulgated thereunder, or other applicable federal law.

FLOTATION DEVICES REQUIREMENTS

Section 11 would require that any polystyrene flotation devices installed on a dock, buoy, or float must be encapsulated by a protective covering to prevent the polystyrene from disintegrating. This provision would not apply to polystyrene used in the construction, maintenance, or operation of boats or vessels, but would require that such polystyrene be effectively contained and lawfully disposed of. This section would also prohibit the sale of polystyrene flotation devices unless encapsulated in compliance with this provision.

This section would become effective January 1, 2025, and would apply to any polystyrene foam flotation sold or used in the State after that date.

ADD NEW PROCEDURAL REQUIREMENTS FOR COASTAL AREA MANAGEMENT ACT GUIDELINES

Section 12 would require DEQ to make available to the public on DEQ's website either (i) the entirety of any State guidelines for the coastal area or (ii) a link to those guidelines in the Administrative Code on the Office of Administrative Hearings website. The guidelines must include a citation to the law under which the rule was adopted, consistent with existing administrative law requirements.

REQUIRE STATUTORY OR REGULATORY CITATION FOR ANY CONDITIONS IN A PERMIT ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY

Section 13 would require DEQ to include in any permit issued by DEQ the statutory or regulatory authority for any permit conditions required in the permit.

REVISE 2020 FARM ACT TMDL TRANSPORT FACTOR CALCULATION APPLICABILITY

Sections 15.(a) and 15.(b) of S.L. 2020-18 provided 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. These sections apply 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 15.(c) provided that no later than August 1, 2020, the Department of Environmental Quality (DEQ), in conjunction with affected parties, must begin modeling necessary to determine new transport zones and delivery factors for the Neuse River Basin for point source discharges and nutrient offset credits. Once DEQ completed that modeling, the Environmental Management Commission must then adopt new transport zones and delivery factors by rule, using the DEQ modeling and other information provided during the public comment period.

This section became effective June 12, 2020. Sections 15.(a) and 15.(b) expire when the rule required by Section 15.(c) becomes effective.

States are generally responsible for developing TMDLs, but must submit those TMDLs to the Environmental Protection Agency for approval pursuant to the federal Clean Water Act and 40 C.F.R. 130.7.

Section 14 would make the following changes to Section 15 of S.L. 2020-18:

- Amend subsection (a) to direct that nutrient offset credits be applied to a wastewater treatment permit by applying the TMDL transport factor to the permitted discharge and the offset credits as specified in the 1999 Phase I TMDL.
- Amend subsection (c) to provide that DEQ is permitted, but no longer required, to begin modeling to determine new transport zone and delivery factors for the Neuse River Basin for point source discharges and nutrient offset credits. Once DEQ completes the modeling, it must provide EMC with a list of qualified professionals from which EMC must select at least two to validate the modeling. The EMC may use the modeling, if validated, to adopt new transport zone and delivery factors.

CLARIFY CERTAIN ENVIRONMENTAL PERMITTING LAWS APPLICABLE TO AGRICULTURAL ACTIVITIES

Current law requires any person who constructs or operates an animal waste management system to obtain a permit under either the general Control of Pollution Part of the Water and Air Resources Article or under the Animal Waste Management Systems Part of that Article.

G.S. 143-215.1(i) and (k) provide that any person required to obtain an individual permit from the Commission for a disposal system under the authority of that section or Chapter 130A of the General Statutes must have a compliance boundary established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded, and that the EMC must require the permittee to undertake corrective action to restore the groundwater quality.

Section 15(a) would provide that a person who constructs or operates an animal waste management system only need obtain a permit under the Animal Waste Management Systems Part. This would not eliminate a permittee's responsibility to obtain an NPDES permit. **Subsection (b)** would provide that, for animal waste management systems, the EMC could not deny a permit application, or attach a condition to the permit except when the EMC determines that a denial or condition is required by the statutes governing the permitting of animal waste management systems. **Subsection (b)** would also provide that permitted animal waste management systems must have compliance boundaries and must undertake corrective action in the event that groundwater standards are violated, consistent with the requirements for other disposal systems, and that a permit applicant, permittee, or dissatisfied third party may commence a

contested case by filing a petition within 30 days of the EMC notifying the applicant or permittee of its permit decision. If a petition is not filed within 30 days, the EMC's decision is final and not subject to review.

PROHIBIT SALE OF NUTRIENT OFFSETS FROM MUNICIPAL NUTRIENT OFFSET BANKS TO ANY ENTITY OTHER THAN A GOVERNMENT ENTITY OR A UNIT OF LOCAL GOVERNMENT

Various river basins and watersheds in the State are subject to nutrient reduction strategies for nitrogen and phosphorus (Neuse River Basin, Tar-Pamlico River Basin, Jordan Lake Watershed, and Falls Lake Watershed). The rules regulate sources of nutrient pollution in each basin or watershed including wastewater, stormwater, and agricultural nutrient sources. Where nutrient reduction requirements exist Nutrient Offset Mitigation may be required for any new or existing development. The statutes authorize the purchase of nutrient offset credits to offset nutrient loadings to surface waters as follows:

- A government entity[2] may purchase nutrient offset credits through either:
  - (1) Participation in a nutrient offset bank that has been approved by DEQ if DEQ approves the use of the bank for the required nutrient offsets.
  - (2) Payment of a nutrient offset fee established by DEQ into the Riparian Buffer Restoration Fund.
- A party other than a government entity, may purchase nutrient offset credits through either:
  - (1) Participation in a nutrient offset bank that has been approved by DEQ if DEQ approves the use of the bank for the required nutrient offsets.
  - (2) Payment of a nutrient offset fee established by DEQ into the Riparian Buffer Restoration Fund if the applicant who demonstrates that the previous option is unavailable.

Section 16 would prohibit nutrient offset banks approved by DEQ and owned by a unit of local government from selling nutrient offset credits to any entity other than a government entity or unit of local government. This section would become effective when law and would apply to nutrient offset banks owned by a unit of local government and approved by DEQ on or after that date, except that it would not apply to a unit of local government that has a nutrient offset banking instrument approved by DEQ prior to the effective date of this section.

SHORTEN SEPTAGE MANAGEMENT PERMITTING REVIEW AND CLARIFY PUMPER TRUCK FEE

Septage management firms must obtain permits from DEQ before commencing or continuing operation. DEQ must act on a permit within 90 days of receiving a complete permit application. Septage management firms are also required to pay an annual fee of $550 for operating a single pumper truck or an annual fee of $800 for operating two or more pumper trucks.

[2] Defined as "[t]he State and its agencies and subdivisions, or the federal government. 'Government entity' does not include a unit of local government unless the unit of local government was a party to a mitigation banking instrument executed on or before July 1, 2011, notwithstanding subsequent amendments to such instrument executed after July 1, 2011."

Section 17 would shorten the permit review period to 60 business days, require DEQ to cite the reason for permit denial, provide that a septage management firm is deemed permitted if DEQ fails to act within the 60-day period if all other applicable waste management requirements are met, and clarify that, for the purposes of calculating the truck fee, the number of pumper trucks shall be limited to only those pumper trucks and vehicles used in the transportation, containment, or consolidation of liquid septage that transport septage on State-maintained roads.

WASTEWATER DESIGN FLOW RATE MODIFICATIONS

As a part of its NPDES wastewater permit, a wastewater treatment system must meet certain minimum design and capacity requirements, including a requirement that the system can handle the proposed flow of the various users and uses of the system. For new dwelling units, the current "daily design flow" is 120 gallons per day per bedroom with a minimum flow rate per dwelling unit of 240 gallons per day. Session Law 2023-55 provided that the permittee for a wastewater treatment system may calculate its wastewater flows for new dwelling units at 75 gallons per day per bedroom, or at a lower rate approved by the Department of Environmental Quality (DEQ).

Section 18 would amend G.S. 143-215.1(f3), as amended by S.L. 2023-55, to provide that the minimum flow rate for a dwelling unit is 75 gallons per day, consistent with a 1-bedroom dwelling unit, and further provide that the permittee for a wastewater system must calculate its wastewater flow rate for new dwelling units discharging to systems serving two or more dwelling units that have yet to be connected and for which the permittee has not allocated capacity at 75 gallons per day, and sets the minimum flow rate for those dwelling units at 75 gallons per day.

Section 18.1 would direct the Environmental Management Commission (EMC) to implement its existing rules for wastewater design flow rates and demonstration of future wastewater treatment capacities, which are authorized pursuant to G.S. 143-215.1, consistent with changes to that statute made in S.L. 2023-55 and Section 18 of this act, and to adopt permanent rules consistent with that implementation.

Section 18.2 would direct the EMC to study whether to amend its rules regarding the design flow rates for schools, charter schools, boarding schools, preschools, and day care facilities, including schools with or without cafeterias, gyms, and showers, to consider reduced water consumption associated with new plumbing fixtures and appliances.

PROHIBIT DISPOSAL OF LITHIUM-ION BATTERIES IN LANDFILLS; LIMIT DISPOSAL OF SOLAR PANELS TO LINED LANDFILLS AND OTHER APPROVED FACILITIES

Section 19 would prohibit the disposal of a lithium-ion battery in a landfill or incinerator. This section would also prohibit the disposal of a photovoltaic (PV) module, or components thereof, in a sanitary landfill for the disposal of construction and demolition debris waste that is unlined or in any other unlined landfill. A PV module, or components thereof, not shipped for reuse or not recyclable would need to properly be disposed of in an industrial landfill or a municipal solid waste landfill. Any PV modules that meet the definition of hazardous waste must comply with applicable hazardous waste requirements for disposal and recycling.

DEQ would be directed to study proper handling of end-of-life lithium-ion batteries, and specifically whether any size-based exceptions to the disposal ban are appropriate. DEQ would be required to report on its findings, including any recommendations for legislative action, to the Environmental Review Commission no later than May 1, 2024.

The bans on disposal would become effective December 1, 2026, and apply to offenses committed on or after that date.

CLARIFY BROWNFIELD PROGRAM CONSTRUCTION

A brownfields site is any real property that is abandoned, idled, or underutilized where environmental contamination, or perceived environmental contamination, hinders redevelopment. The Brownfields Property Reuse Act (Act) of 1997 was enacted to encourage and facilitate redevelopment of these sites by removing barriers to redevelopment posed by a prospective developer's (PD's) potential liability for clean-up costs. To be eligible for participation in the Brownfields Program (Program), a PD must not have caused or contributed to contamination at a site. The Act does not obviate practical or necessary remediation of properties under any State or federal cleanup program, but it does authorize the Department of Environment Quality to work with PDs toward the safe redevelopment of sites, and to provide PDs regulatory flexibility and liability protection that would not be available to parties who actually caused or contributed to contamination at a site.

If a site is included in the Brownfields Program, the Department will enter into an agreement with the developer that is in effect a covenant not-to-sue contingent on the developer making the site suitable for the reuse proposed. Additionally, a brownfields agreement obtained from the Program entitles the developer to a property tax exclusion on the improvements made to the property for a period of five years, which can more than pay for assessment and cleanup activities on many projects. Site remedies (cleanup requirements) under the Program are also less costly and time consuming than they would be for a party who caused or contributed to the contamination, as site remedies under the Brownfields Program are designed to prevent exposure and make the site suitable for reuse, rather than meet environmental standards required under the traditional cleanup programs.

Section 20 would amend the brownfields' statute to provide that the law must not be construed to limit or preclude a prospective developer from performing an investigation of a brownfields property without prior approval from the Department.

MODIFY THE APPLICATION OF RIPARIAN BUFFER RULES REGARDING AIRPORT FACILITIES

Six river basins or watersheds across the State have specific riparian buffer rules: the Neuse, Tar-Pamlico, Catawba, Randleman Goose Creek, and Jordan rules. These rules generally require a 50-foot riparian buffer that is divided into two zones. The 30 feet closest to the water (Zone 1) must remain undisturbed. The outer 20 feet (Zone 2) can be managed vegetation, such as lawns or shrubbery. The rules do, however allow for uses that are present and ongoing (i.e., existing uses) to remain in the buffer. For new uses, the riparian buffer rules include a Table of Uses that lists activities allowed in each zone of the buffer. There are three different categories of allowable activities:

- Exempt uses are allowed in the riparian buffer without approval from the Division or Local Government.
- Allowable uses may occur in the buffer on a case-by-case basis with approval from the Division or Local Government.
- Allowable with mitigation uses may occur in the buffer on a case-by-case basis with approval from the Division or Local Government when mitigation is provided.

The Neuse and Jordan rules currently include detailed definitions for "airport facilities" and in their respective Table of Uses, designate allowable and allowable with mitigation uses.

In the case where a use is "allowable," or "allowable with mitigation," generally the rules require an Authorization Certificate under 15A NCAC 02B .0611(b) for any work in connection with an Airport Impacted Property.

Section 21 would:

- Modify the definition for "airport facilities" in these sections of the rules to "include all areas used or suitable for use as borrow areas, staging areas, or other similar areas of the airport that are used or suitable for use directly or indirectly in connection with the construction, dismantling, modification or similar action pertaining to any of the properties, facilities, buildings, or structures" already described in the rules. The provision would also apply this modified definition, as relevant, in other sections of the Subchapter.
- Provide that notwithstanding any provisions of the Neuse River Basin Buffer Rules, no Authorization Certificate would be required for any work in connection with an Airport Impacted Property, but such work would be required to provide for mitigation in conformance with applicable Neuse River Basin Riparian Buffer Rules.

MODIFY CERTAIN PROVISIONS OF THE FLOODPLAIN REGULATION STATUTES TO DIRECT THE DEPARTMENT OF PUBLIC SAFETY TO ISSUE FLOODPLAIN PERMITS FOR CERTAIN AIRPORT PROJECTS

The statutes on "floodway regulation":

- Authorize local governments to adopt ordinances to regulate uses in flood hazard areas and grant permits for the use of flood hazard areas.
- Require the Department of Public Safety (DPS) to provide advice and assistance to any local government having responsibilities under the regulations. In exercising this function, the Department may furnish manuals, suggested standards, plans, and other technical data; conduct training programs; give advice and assistance with respect to delineation of flood hazard areas and the development of appropriate ordinances; and provide any other advice and assistance that the Department deems appropriate.
- Authorize DPS to prepare a floodplain map that identifies the 100-year floodplain, in certain circumstances.

Section 22 would require DPS to grant a permit for the use of an eligible flood hazard area in connection with an airport project for which an airport authority received a no-rise certificate for that airport project where there is no local government that has a clearly demonstrated statutory authority to issue such a permit for the airport project for the use of a flood hazard area. In the event the Department does not issue a permit for the airport project within 30 days of its receipt of a written request submitted by an airport authority for an airport project, the permit is deemed issued to the airport authority for the airport project by operation of law. Various criteria for an "eligible flood hazard area" would be established by the bill. A "no-rise certificate" would be defined as a certificate "that has been accepted by the Department as demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge."

UTILITIES COMMISSION AUTHORITY TO ALLOW OWNERS' ASSOCIATIONS TO CHARGE FOR THE COSTS OF PROVIDING WATER AND SEWER SERVICE

To encourage water conservation, G.S. 62-110(g) authorizes the Utilities Commission (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 required 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. In 2022, the Commission was authorized to adopt procedures to allow a lessor of a leased residential premise 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.

Section 23 would authorize the Commission to adopt procedures to allow an owners' association to charge for the costs of providing water or sewer service to persons who occupy townhomes within a planned community, and a unit owners' association to charge for the costs of providing water or sewer service to persons who occupy a condominium. For purposes of this section, a townhome is a single-family dwelling unit constructed in a group of three or more attached units.

INCREASE MINIMUM BOND REQUIRED BEFORE A FRANCHISE CAN BE GRANTED TO A WATER OR SEWER UTILITY COMPANY

Before a franchise may be granted to any water or sewer utility company, the applicant for the franchise must furnish a bond in an amount not less than $10,000. If an emergency operator is appointed by the Utilities Commission, with the consent of the owner or operator of the utility company, the bond is forfeited.

Section 24 would increase the minimum bond required from $10,000 to $25,000 and would provide that the bond would be forfeited if the Utilities Commission appoints an emergency operator pursuant to the existing statutory procedure for the issuance or temporary or emergency authority by the Utilities Commission.

COMMISSIONER OF AGRICULTURE/SUPPLY CHAIN POWERS

Section 25 would, notwithstanding any other provision of law, authorize the Commissioner of Agriculture to develop and implement any emergency measures and procedures needed to mitigate an imminent threat to or a disruption of the agricultural supply chain or food supply chain with respect to poultry due to a lack of capacity at rendering facilities or landfills when the Commissioner determines that such a threat exists and convenes a meeting of the Board of Agriculture and the Board votes to concur with the Commissioner's determination. Any emergency measures implemented pursuant to this power are deemed permitted pursuant to G.S. 143-215.1(b) and G.S. 130A-294 and will not require the Department of Environmental Quality to issue individual permits. No further permitting would be required for composting, and composting conducted pursuant to this emergency authorization would be supervised by Commissioner-determined subject matter experts. The Commissioner would be required to record the responses from the Board and release the response along with any emergency orders issued by the Commissioner. Emergency measures and procedures developed and implemented pursuant to this authority would be exempt from the Administrative Procedure Act, and no emergency measure or procedures would be allowed to last for more than 90 days, except that the Commissioner may renew any measure or procedure once for an additional 90 days.

This section would also grant the Commissioner the same authority for supply chain disruptions with respect to livestock, except that the Commissioner would also need to submit any emergency measures or procedures relating to the composting of livestock to the Governor for approval before it could be implemented.

PART II. STATE AND LOCAL GOVERNMENT PROVISIONS

LIMIT LOCAL GOVERNMENT ZONING AUTHORITY TO REQUIRE FIRE ACCESS ROADS IN EXCESS OF THE FIRE CODE OF THE NORTH CAROLINA RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS

Under current law, local government zoning and development regulations may not (i) set a minimum square footage of structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings, or (ii) set a maximum parking space size larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.

Section 26 would additionally prohibit local government zoning and development regulations from requiring additional entrances into a residential subdivision that are not in compliance with the number of entrance requirements into a residential subdivision set forth in the Fire Code of the North Carolina Residential Code for One- and Two-Family Dwellings.

This section would be effective when it becomes law and would apply to existing municipal or county ordinances. Any municipal or county ordinance inconsistent with this section would be void and unenforceable.

PROHIBIT COUNTIES AND CITIES FROM REGULATING CERTAIN ONLINE MARKETPLACES

Section 27 would prohibit counties or cities from doing the following:

- Regulating the operation of an online marketplace.
- Requiring an online marketplace to provide personally identifiable information of users, unless pursuant to a subpoena or court order.

This section would also define "online marketplace" as a person or entity that does both of the following:

- Provides for consideration, regardless of whether the consideration is deducted as a fee from the transaction, an online application, software, website, system, or other medium through which a service is advertised in this State or is offered to the public as available in this State.
- Provides, directly or indirectly, or maintains a platform for services by performing any of the following:
    - Providing a payment system that facilitates a transaction between two platform users.
    - Transmitting or otherwise communicating the offer or acceptance of a transaction between the two platform users.
    - Owning or operating the electronic infrastructure or technology that brings two or more users together.

The term "online marketplace" would not include any local or State entity or vendor. This section would not affect any authority otherwise granted to counties and cities in State statute.

EXEMPT MINOR LEAGUE BASEBALL PLAYERS EMPLOYED UNDER A COLLECTIVE BARGAINING AGREEMENT FROM STATE MINIMUM WAGE, OVERTIME, AND RECORD KEEPING REQUIREMENTS

Employees who work for employers with at least two employees and that meet either of the following conditions are covered by the federal Fair Labor Standards Act (FLSA):

- The employer has an annual dollar volume of sales or business of at least $500,000.
- The employer is a hospital, a provider of medical or nursing care for residents, a school, a preschool, or a government agency.

The FLSA requires that covered employers pay their employees at least the federal minimum wage and overtime pay (i.e., at time and one-half the regular rate of pay after 40 hours in a workweek), except for certain classes of exempt employees. States may elect to either apply the federal exemptions or to apply minimum wage and overtime requirements that are more protective than the FLSA.

In 2018, the United States Congress enacted the Save America's Pastime Act, which exempts baseball players from federal minimum wage and overtime requirements if compensated under a contract that provides a weekly salary at a rate not less than a weekly salary equal to the federal minimum wage for a 40-hour workweek, irrespective of the number of hours the employee devotes to baseball related activities.

Section 28 would exempt minor league baseball players employed under a collective bargaining agreement from State minimum wage, overtime, and record keeping requirements.

This section would become effective January 1, 2024.

MODIFY THE RULES RELATED TO THE INSPECTION OF ESTABLISHMENTS THAT PREPARE OR SERVE FOOD

The Commission for Public Health (CPH) is charged with adopting rules regulating the inspection of establishments that prepare or serve food. Food establishments are routinely inspected and assigned a letter grade. Upon the request of a food establishment permittee, a reinspection shall be made. If the reinspection is requested for the purpose of raising the establishment's letter grade, the regulatory authority shall make an unannounced inspection within 15 calendar days of the request. A food establishment designated Risk Category IV shall be inspected at least once every three months.

Sections 29.1, 29.2, and 29.3 would direct CPH to implement certain food establishment rules as follows, and readopt its rules consistent with this implementation:

- Reduce the period in which a reinspection to raise a letter grade may be made from 15 calendar days to 10 business days.
- Reduce the frequency of Risk Category IV food establishments inspections from four times a year to three times a year but require that local health departments make an educational visit to these establishments at least once a year to review any previous priority violations, public health risk factors, and the Hazard Analysis Critical Control Plan, if applicable.
- Make a conforming change regarding inspection frequency and the new educational visit requirement.

CODIFY EXISTING STROKE CENTER DESIGNATIONS AND ADD A THROMBECTOMY-CAPABLE STROKE CENTER DESIGNATION

S.L. 2013-44 directed the Department of Health and Human Services (DHHS) to designate a qualified hospital as primary stroke center if that hospital submits an application that demonstrates the hospital is certified as a primary stroke center by the Joint Commission or other nationally recognized body that requires conformance to best practices for stroke care. DHHS maintains a list of hospitals designated as primary stroke centers on its website. Rules adopted by DHHS provide criteria for designating a hospital as a primary stroke center, comprehensive stroke center, or acute stroke ready hospital.

Section 30 would amend the existing stroke designation statute to codify the criteria for designating a hospital as a primary stroke center, comprehensive stroke center, or acute stroke ready hospital, and would provide that in addition to a certification from the Joint Commission, a certification from the American Heart Association would suffice to qualify as a designated stroke center. This section would also create a new designation for a thrombectomy-capable stroke center for hospitals that are so certified by the American Heart Association, Joint Commission, or other DHHS-approved certifying body, and authorize DHHS to recognize primary stroke centers that offer muscular endovascular therapies but have not been certified as thrombectomy-capable stroke centers as primary stroke centers with endovascular services. This section would also require certified hospitals to report that certification to DHHS within 90 days of receiving certification.

STATE OWNERSHIP OF HEALTH INFORMATION EXCHANGE NETWORK DATA

The Statewide Health Information Exchange Act was enacted by the General Assembly to facilitate and regulate the use of a voluntary, statewide health information exchange network for the secure electronic transmission of individually identifiable health information among health care providers, consistent with federal HIPAA requirements. The Act created the Health Information Exchange Network (HIE Network), which is administered by the NC HIE Authority (Authority).

Section 31(a) would provide that patient identifiers created by the Authority to integrate identity data in the HIE Network must be released to the NC Government Data Analytics Center (GDAC) and the Department of Health and Human Services for the purposes of entity resolution and master data management. This section would also provide that patient identifiers are not public records.

Section 31(b) would further provide that patient identifiers created and utilized by the GDAC are State-owned data and not public records, and that the GDAC may release patient identifiers to State agencies, departments, and institutions for the purposes of entity resolution and master data management.

VOLUNTARY CONNECTION TO NORTH CAROLINA HEALTH INFORMATION EXCHANGE FOR CHIROPRACTORS

The Health Information Exchange Network (HIE Network) is a voluntary, statewide health information exchange network overseen and administered by the North Carolina Health Information Exchange Authority. Despite the voluntary nature of the HIE Network, hospitals, most physicians, physician assistants and nurse practitioners have been required to submit at least demographic and clinical data through the HIE Network pertaining to services rendered to Medicaid beneficiaries and to other State-funded health care program beneficiaries and paid for with Medicaid or other State-funded health care funds since 2018. Beginning January 1, 2023, several other entities were required to submit demographic and clinical data.

Section 32 would allow chiropractors to voluntarily submit data to the HIE Network.

EXPANSION OF THE HOMESCHOOL COOPERATIVE EXEMPTION TO THE DEFINITION OF CHILD CARE

Child care facilities are regulated by the Department of Health and Human Services (DHHS) pursuant to Article 7 of Chapter 110 of the General Statutes. Child care facilities subject to regulation by DHHS must register with DHHS and meet certain operating requirements.

Section 33 would revise the homeschool cooperative exemption to the definition of "child care" to allow cooperative arrangements to provide for the academic instruction of school age children to occur in a location outside the home of one of the cooperative participants.

DEPARTMENT OF INFORMATION TECHNOLOGY PROCUREMENT CHANGES

Section 34 would allow the Department of Information Technology's procurement activities, including but not limited to the Statewide Information technology Procurement Office, to be funded through a combination of administrative fees as part of the IT Supplemental Staffing contract, as well as fees charged to agencies using their services.

RESTORE 2009 BUILDING CODE STANDARDS FOR PIERS AND DOCKS CONSTRUCTED IN ESTUARINE WATERS

Currently, Chapter 36 of the 2018 North Carolina Building Code (Code) sets standards for the construction of piers and docks throughout the State.

Section 35 would direct the North Carolina Building Code Council to implement the Code so that no building requirements for piers or docks built in estuarine waters are inconsistent with the requirements of the applicable "Docks, Piers, Bulkheads, and Water Structures" Chapter in the 2009 North Carolina Building Code.

PRESERVE EXISTING NORTH CAROLINA BUILDING CODE LIMITATION ON THE USE OF PLASTIC PIPE IN CERTAIN BUILDINGS

The 2018 North Carolina Building Code prohibits the use of plastic pipes, plastic pipe fittings, and plastic appurtenances with an inside diameter 2 inches and larger in either of the following circumstances:

(1) Drain, waste, and vent conductors in buildings in which the top occupied floor exceeds 75 feet (23 meters) in height.
(2) Storm drainage conductors in buildings in which the top occupied floor exceeds 75 feet (23 meters) in height.

Section 36 would codify the plastic pipe limitation.

DISAPPROVE CERTAIN DOA PROCUREMENT RULES

The Administrative Procedure Act provides the mechanism for legislative disapproval of rules adopted by a State agency. G.S. 150B-21.3 governs the effective date of rules, including rules disapproved by legislation.

Pursuant to 150B-21.3(b1), if a bill that specifically disapproves a rule subject to legislative review is introduced in either chamber of the General Assembly before the 31st legislative day the rule becomes effective on the earlier of the bill being voted down or the General Assembly adjourning without ratifying the bill. If the disapproval bill becomes law, the disapproved rule does not become effective.

On October 22, 2022, the North Carolina Department of Administration (DOA) adopted rules regarding good faith efforts to engage historically underutilized businesses in State contracting. RRC approved these rules on December 15, 2022, and a portion of those rules received 10 or more written objections, subjecting them to legislative review.

Section 37 would disapprove two rules adopted by DOA subject to legislative review.

DELAY THE EFFECTIVE DATE OF RULES ADOPTED BY THE APPRAISAL BOARD SUBJECT TO LEGISLATIVE REVIEW

On April 19, 2022, the Appraisal Board adopted rules regarding appraiser qualifications, reporting, and supervision. The Rules Review Commission approved the rules on June 16, 2022, and six of these rules received 10 or more written objections, subjecting them to legislative review.

Section 38 would delay the effective date of the six rules adopted by the North Carolina Appraisal Board subject to legislative review to December 31, 2025.

The rules that would be delayed by this section propose to create an alternative method of meeting the licensure and certification requirements for appraisals using the Practical Applications of Real Estate Appraisal (PAREA) of the Real Property Appraiser Qualification Criteria as implemented by The Appraisal Foundation's Appraiser Qualifications Board, as well as make other changes regarding appraiser trainee supervision, requirements, and reporting.

EMERGENCY SUPPLY CHAIN DECLARATION FOR LOCAL GOVERNMENTS

The North Carolina Emergency Management Act provides additional authority to the Governor, State agencies, and local governments to prevent, prepare for, respond to, or recover from natural and man-made emergencies or hostile military action.

Article 8 of Chapter 143 of the General Statutes governs how government entities may award or enter into contracts for construction, repair work, and the purchase of goods and services.

Section 39 would expand the definition of "emergency" to include a "disruption in the supply chain that creates a significant threat to a local government's ability … to provide essential services such as electricity and water." This section would further provide that during an emergency created by a supply chain disruption, government entities otherwise subject to Article 8 of Chapter 143 would be exempt from those requirements when awarding contracts for apparatus, supplies, materials, or equipment, or construction or repair work requiring those items, where such apparatus, supplies, materials, or equipment is either (i) listed in a Emergency Declaration issued pursuant to the NC Emergency Management Act, or (ii) listed in an order or regulation issued by the federal government pursuant to the Defense Production Act of 1950.

CLARIFY RESERVATION OF WATER AND SEWER CAPACITY FOR PROPOSED CHARTER SCHOOL FACILITIES

In 2021, the General Assembly enacted a statute authorizing a local board of education to reserve water and sewer capacity for construction of a proposed public school for a period of 24 months, if the applicable public water or sewer provider had capacity. The statute (G.S. 115C-521(i)) was made applicable to charter schools through a cross-reference elsewhere in the statutes (G.S. 115C-218.35(e)).

Section 40 would create a new statute for charter schools, substantially identical to the statute enacted for public schools in 2021, and delete the cross-referenced statute, to clarify charter schools' eligibility for reservation of sewer capacity established in 2021.

DEADLINE FOR NOTIFICATION OF CODIFIER OF REPEALED RULES/CODIFIER AUTHORITY TO REMOVE REPEALED RULES FROM ADMINISTRATIVE CODE

GS 150B-21.7 provides that an administrative rule adopted by an agency is repealed as of the effective date of: (1) the repeal of the law that authorized the agency to adopt the rule, when no other law gives the same or another agency substantially the same authority to adopt the rule; or (2) an executive order that abolishes part or all of an agency and does not transfer a function of that agency to another agency. Upon repeal, the agency that adopted the rule shall notify the Codifier of Rules that the rule has been repealed, who must enter the repeal of the rule in the North Carolina Administrative Code.

Section 41 would amend G.S. 150B-21.7 by requiring agencies to notify the Codifier of Rules within 30 days of a rule being repealed as provided under this statute. Furthermore, Section 41 provides that if the Codifier of Rules does not receive timely notice from the agency that a rule has been repealed, then the Codifier of Rules must remove the rule from the North Carolina Administrative Code after notifying the agency.

RESTATEMENT OF APA REQUIREMENTS FOR AGENCY TO ADOPT REQUIREMENTS AS RULES

G.S. 150B-18 prohibits agencies from seeking to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule contained in G.S. 150B-2(8a) if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with the Administrative Procedure Act.

Section 42 would provide that, in accordance with G.S. 150B-18, no agency of this State shall enforce against any person a policy, guideline, or other interpretive statement that describes the procedure or practice requirements of the agency unless those requirements have been adopted as a rule in accordance with Article 2A of Chapter 150B of the General Statutes.

EXEMPT FROM PUBLIC CONTRACT BIDDING REQUIREMENT HEATING AND COOLING SYSTEM REPAIR WORK MADE THROUGH A COMPETITIVE BIDDING GROUP PURCHASING PROGRAM

Article 8 (Public Contracts) of Chapter 143 of the General Statutes governs how government entities may award or enter into contracts for construction, repair work, and the purchase of goods and services. That Article generally requires formal bidding of contracts for repair work with an estimated expenditure of $500,000 or more in public funds.

G.S. 143-129(e) provides an exemption to formal public bidding requirements for purchases made through a competitive bidding group purchasing program, which is a formally organized program that offers competitively obtained purchasing services at discount prices to two or more public agencies.

Section 43 would expand the competitive bidding group purchasing exemption to repair work of heating and cooling systems, including both installation labor and equipment acquisition. To fall under this exemption, the contract for repair work for heating and cooling systems may not exceed a total cost of

$2 million, and must be procured using a competitive bidding group purchasing program that is qualified to sell to the United States of America or any agency thereof.

This section would be effective when it becomes law and apply to repair work procured on or after that date.

PROHIBIT COUNTIES AND CITIES FROM ADOPTING CERTAIN ORDINANCES, RULES, AND REGULATIONS RELATED TO BATTERY-CHARGED SECURITY FENCES AND TO DEFINE AND ESTABLISH REQUIREMENTS FOR THOSE BATTERY-CHARGED SECURITY FENCES

Chapter 74D governs the licensing of alarm system businesses, including minimum qualifications and standards for licensees. G.S. 74D-11(c) authorizes cities and counties to require alarm system businesses operating within their jurisdiction to register with the local government.

For both sections, "battery-charged security fence" would be defined as an alarm system and ancillary components, including a fence, a battery-operated energizer, and a battery charging device used to charge the battery. Battery-charged security fences would be required to meet the following requirements:

- Interfaces with a monitored alarm device enabling the system to summon the business owner or law enforcement in the event of an intrusion.
- Located on property not zoned exclusively for residential use.
- Has an energizer powered by a battery not more than 12 volts of direct current.
- Has an energizer that meets the standards established by the most current version of the International Electrotechnical Commission Standard 60335-2-76.
- Is surrounded by a non-electric perimeter fence or wall at least 5 feet tall.
- Does not exceed 10 feet in height or 2 feet higher than the perimeter fence, whichever is higher.
- Is marked with conspicuous signs that read "WARNING—ELECTRIC FENCE" at least every 30 feet.

Section 44(a) would prohibit counties from requiring any permit, fee, review, or approval for the installation or use of a battery-charged security fence in excess of any requirements adopted pursuant to G.S. 74D-11(c). Further, counties would be prohibited from imposing installation or operational requirements inconsistent with requirements set forth in the bill, and from prohibiting the installation and operation of battery-charged security fences on property zoned for nonresidential use.

Section 44(b) would prohibit the same for cities.

MODIFY THE LICENSING REQUIREMENTS FOR TRANSLITERATORS AND INTERPRETERS

Chapter 90D, the Interpreter and Transliterator Licensure Act, establishes the North Carolina Interpreter and Transliterator Licensing Board, and outlines the powers of that Board and licensure requirements for the practice of interpreting and transliterating. Currently, G.S. 90D-7 outlines the requirements for full licensure as an interpreter or transliterator, and G.S. 90D-8 outlines the requirements for provisional licensure as an interpreter or transliterator.

Section 45 would:

- Amend the statutory list of acceptable industry certifications and assessments that an applicant would need to hold to meet full licensure qualifications in this State.

- Amend the statutory requirements to include that an applicant hold at least a two-year associate degree in interpreting and amend the list of acceptable industry certifications, classifications, and assessments that an applicant would need to hold to meet provisional licensure qualifications in this State.

The section would also direct the North Carolina Interpreter and Transliterator Licensing Board to adopt temporary rules to implement these changes and specifies those temporary rules would remain effective until permanent rules become effective as a replacement.

The licensing changes made in by this section would become effective December 1, 2023, and apply to licenses and provisional licenses issued or renewed by the North Carolina Interpreter and Transliterator Licensing Board after that date.

PROHIBIT DISCRIMINATION OR RETALIATION IN EMPLOYMENT FOR ABSENCES OF MEMBERS OF THE CIVIL AIR PATROL PERFORMING AUTHORIZED DUTIES

The Civil Air Patrol is the official auxiliary of the United States Air Force (USAF). The North Carolina Wing-Civil Air Patrol (NCWCAP) operates as a section within the Division of Emergency Management of the Department of Public Safety (DPS) and receives, from State and local governments, their agencies, and private citizens, requests for State approval for assistance in natural or man-made disasters or other emergency situations. These requests are approved or denied by the Secretary of DPS. Members in good standing of the NCWCAP are, while performing duties incident to a State approved mission, considered employees of the DPS only for purposes of workers' compensation.

Section 46 would prevent an employer from discriminating against, discharging, demoting, or otherwise taking adverse employment action against any employee that is a member of the NCWCAP based on that membership or any absence from work required to perform duties with the NCWCAP if all the following apply:

- The absence is necessary to perform duties incident to a State approved mission or to a USAF authorized mission.
- The absence is for no more than seven consecutive scheduled working days.
- The total absences in a calendar year do not exceed more than 14 scheduled working days.

The employer could require the employee to furnish a copy of the employee's mission order and would not be required to pay salary or wages to any NCWCAP member during the authorized absence unless the member chooses to use any paid leave that may be available.

This section would become effective December 1, 2023, and apply to absences occurring on or after that date.

PART III. MISCELLANEOUS PROVISIONS

INCREASE THE TOTAL APPRAISED VALUE OF ALL REAL ESTATE PRIZES OFFERED DURING A CALENDAR YEAR BY A NONPROFIT ORGANIZATION AS PART OF A RAFFLE

Under current law, a nonprofit organization, candidate, political committee, or government entity within the State may conduct a raffle. A nonprofit organization may conduct up to four raffles per year. The maximum prize value that may be offered in a raffle is $125,000, except that real property worth up to an appraised value of $500,000 may be offered as a prize in any one raffle. The total appraised value of all

real property prizes offered by any nonprofit organization may not exceed five hundred thousand dollars ($500,000) in any calendar year.

Section 47 would allow a nonprofit organization to conduct up to five raffles per year and clarify that a nonprofit organization offering real property as a prize in a raffle must provide the property free from all liens, provide an owner affidavit and indemnity agreement, and provide a title commitment for the property and shall make that commitment available for inspection upon request. Additionally, this section would repeal the maximum real property prize value of $500,000 in any one raffle, but would limit the total appraised value of all real property prizes offered by any nonprofit organization to $2,250,000 per calendar year.

This section would be effective when it becomes law and applies to raffles conducted on or after that date.

CLARIFY THAT INFLATABLE DEVICES ARE NOT AMUSEMENT DEVICES

The Amusement Device Safety Act charges the Department of Labor with regulating the use and operation of amusement devices in the State.

Section 48 would clarify that inflatable devices, including air-supported devices made of flexible fabric, inflated by one or more blowers, that relies upon air pressure to maintain its shape, are not considered amusement devices subject to Department of Labor regulation. This section would also make technical and conforming changes to the Amusement Device Safety Act.

COMMERCIAL MOBILE RADIO SERVICE CHANGES

The 911 Board is established within the Department of Information Technology (DIT) and is charged with managing both wireline and wireless 911 throughout the State, including developing the 911 State Plan and administering the 911 Fund.

Commercial mobile radio service (CMRS) providers must comply with certain requirements for enhanced 911 service and may be reimbursed by the 911 Fund for costs incurred due to compliance, including designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide 911 communications service.

A public safety answering point (PSAP) is the public safety agency that receives an incoming 911 call and dispatches appropriate public safety agencies to respond to the call.

Section 49(a) would eliminate one of the alternative criteria triggering a requirement that the CMRS receive prior approval from the 911 Board for invoices for reimbursement.

The remaining subsections would, effective July 1, 2024, repeal the statute providing for 911 Fund distribution to CMRS providers for reimbursement and make other technical and conforming changes.

DELETE CONFLICTING WATER/SEWER PROVISION IN SESSION LAW 2023-108

Section 10 of Session Law 2023-90 and Section 12 of Session Law 2023-108 both amend the same statute, G.S. 160A-317, and both limit the ability of municipalities to force water/sewer connection. The language in S.L. 2023-108 is an earlier version of the language in S.L. 2023-90 and conflicts with the already enacted language in S.L. 2023-90.

Section 50 would delete the conflicting language in S.L. 2023-108.

TECHNICAL CORRECTION TO APPOINTMENT CRITERIA FOR THE RESIDENTIAL BUILDING CODE COUNCIL CREATED BY SESSION LAW 2023-108

Session Law 2023-108 created a Residential Code Council, with 13 members appointed by the Governor and the General Assembly. The section of S.L. 2023-108 creating this Council does not become effective until January 1, 2025, and no appointments have been made.

Section 51 would make technical corrections to the appointment criteria for the members appointed by the General Assembly.

This section becomes effective January 1, 2025.

INCREASE ALLOWABLE VEHICLE HEIGHT BY SIX INCHES TO FOURTEEN FEET

G.S. 20-116 limits the height of vehicles that are permissible on State highways to 13 feet, six inches.

Section 52 would raise the maximum allowable vehicle height by six inches, to 14 feet.

This section would become effective December 1, 2023, and apply to offenses committed on or after that date.

REVISIONS REGARDING THE LEASE OR SALE OF HOSPITAL FACILITIES TO OR FROM FOR-PROFIT OR NONPROFIT CORPORATIONS OR OTHER BUSINESS ENTITIES BY MUNICIPALITIES AND HOSPITAL AUTHORITIES

G.S. 131E-13(a) provides that a municipality or hospital authority may lease, sell, or convey any hospital facility, or part, to or from a for-profit or nonprofit corporation or other business entity, subject to certain conditions concerning the continued provision of care at the hospital facility.

G.S. 131E-13(d) imposes additional public notice and hearing requirements on the lease, sale, or conveyance of a hospital facility by a municipality or hospital authority.

Section 53 would exempt from these requirements any leases in which the same tenant has continuously held possession of a hospital facility, or part of a hospital facility, since at least June 30, 1984. This section would also provide that if the tenant, acting as a sublessor, provides notice to the municipality or hospital authority of the sublease, that the municipality or hospital authority must comply with an alternative notice process.

This section becomes effective January 1, 2024.

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