



2023-2024 General Assembly

# HOUSE BILL 600: Regulatory Reform Act of 2023, Sec. 16: Prohibit Sale of Nutrient Offsets from Municipal Nutrient Offset Banks to any Entity other than a Government Entity or a Unit of Local Government

**Committee:**  
**Introduced by:**  
**Analysis of:** Sec. 16 of S.L. 2023-137

**Date:** December 11, 2023  
**Prepared by:** Kyle Evans  
Staff Attorney

**OVERVIEW:** Section 16 of S.L. 2023-137 prohibits nutrient offset banks approved by the Department of Environmental Quality (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 bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective October 10, 2023, and applies to nutrient offset banks owned by a unit of local government and approved by DEQ on or after that date, except that it does not apply to a unit of local government that has a nutrient offset banking instrument approved by DEQ prior to October 10, 2023.*

## CURRENT LAW & BILL ANALYSIS:

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 can 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<sup>1</sup> can 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, can 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.

<sup>1</sup> 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."

Jeffrey Hudson  
Director



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Legislative Analysis  
Division  
919-733-2578

# House Bill 600

Page 2

- (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** prohibits 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.

**EFFECTIVE DATE:** This bill was vetoed by the Governor on October 2, 2023, and that veto was overridden by the General Assembly on October 10, 2023. This section became effective October 10, 2023, and applies to nutrient offset banks owned by a unit of local government and approved by DEQ on or after that date, except that it does not apply to a unit of local government that has a nutrient offset banking instrument approved by DEQ prior to October 10, 2023.