



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

HOUSE BILL 352: Bid Reqs/Permitting/Inundation Maps/CAMA.

2025-2026 General Assembly

Committee:	Senate Regulatory Reform. If favorable, re- refer to Rules and Operations of the Senate	Date:	June 18, 2025
Introduced by:	Rep. Paré	Prepared by:	Chris Saunders
Analysis of:	Third Edition		Committee Counsel

OVERVIEW: *House Bill 352 would do all of the following:*

- *Authorize the award of contracts for construction of water or sewer systems by any board or governing body of the State, or any political subdivision of the State, upon receipt of two competitive bids.*
- *Limit the Department of Environmental Quality's ability to make multiple requests for information in assessing the completeness of various permit applications.*
- *Provide that Emergency Action Plans and downstream inundation maps for high-hazard or intermediate-hazard dams that are not regulated by the Federal Energy Regulatory Commission (FERC) are not confidential "sensitive public security information."*
- *Specify that man-made ditches may not be designated as areas of environmental concern (AECs) for purposes of the Coastal Area Management Act and are not marshlands for purposes of dredge and fill permits in or about estuarine waters or State-owned lakes.*
- *Establish a permitting process for upland basin marinas that meet certain criteria and expedite processing of 401 Certification permitting for upland basin projects.*

CURRENT LAW AND BILL ANALYSIS:

Under G.S. 143-129 and G.S. 143-132, no contract for construction or repair work in an amount equal to or more than \$500,000 may be awarded by any board or governing body of the State, or any political subdivision of the State, unless at least three bids have been received by reputable and qualified contractors.

Section 1 would authorize the award of construction contracts equal to or more than \$500,000 for water systems or facilities, or sewer systems or facilities, by any board or governing body of the State, or any political subdivision of the State, upon receipt of two bids from reputable and qualified contractors. If two bids are not received, the project would be rebid, and a contract could then be awarded upon receipt of one bid from a reputable and qualified contractor.

This section would be effective when it becomes law and apply to contracts entered into on or before December 31, 2030.

Section 2 would provide that in conducting an administrative or completeness review for several different permits, the Department of Environmental Quality (DEQ) would be limited to one request for additional

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information, and could not subsequently request information that was not identified in the original request for additional information. However, DEQ could request information that was previously requested but omitted from a subsequent submission. This would apply to the following permits:

- State stormwater permits.
- Permits for sewer systems, sewer system extensions and disposal facilities, land application of waste, and wastewater treatment facilities that do not discharge to surface waters of the State.
- Water distribution system extensions.
- Small and synthetic minor air quality permits.¹
- Solid waste management facility permits.

Section 3 would provide that Emergency Action Plans and downstream inundation maps for high-hazard or intermediate-hazard dams that are not regulated by the Federal Energy Regulatory Commission (FERC) are not confidential "sensitive public security information."

Section 4 would define the term "man-made ditches" for purposes of CAMA and would clarify that the Coastal Resources Commission may not designate man-made ditches as areas of environmental concern. Man-made ditches also could not be designated as marshlands with respect to permits to dredge or fill in or about estuarine waters or State-owned lakes, excluding man-made ditches from the requirement to obtain a permit before beginning an excavation or filling project.

Section 5.(a) would create a process for permitting of upland basins, defined as marinas constructed by excavating or dredging lands of elevations above the current mean or ordinary high water mark and designed to accommodate more than ten vessels or boat slips. Unless the Director of the Division of Water Resources (DWR) finds, based on site-specific technical information, that an applicant for an upland basin project cannot comply with criteria listed in the bill, then DWR and the Division of Coastal Management must approve the application within 60 days after the applicant submits a completed application and any supplemental information needed to verify compliance with the listed criteria. If the Department fails to act within the 60-day period, the application would be deemed approved.

The criteria with which an upland basin project must comply to be permitted under this process include:

- The waters contained in the upland basin have a dissolved oxygen content equal to or greater than the dissolved oxygen content of the water located 50 feet +/- 5 feet from the entrance to the upland basin before development.
- Financial assurance for the long term operation and maintenance of any technology required to meet or exceed then-applicable water quality standards.
- Construction of the upland basin impacts or removes a total area of coastal wetlands that is no more than 5% of the total area of the proposed upland basin waters.

¹ Small permits are air quality permits for facilities that have no potential to exceed major source emission thresholds that necessitate a Title V permit under the federal Clean Air Act. Synthetic minor permits are issued for facilities that could have potential emissions in excess of a major source threshold but accept physical limitations to keep emission levels below the thresholds. The thresholds are 100 tons per year of at least one regulated air pollutant, 10 tons per year of at least one hazardous air pollutant, or 25 tons per year of any combination of hazardous air pollutants.

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- Construction of the upland basin impacts or removes a total linear footage of coastal wetlands fringe that is no more than 10% of the total linear footage of existing coastal wetlands along the shoreline of the property or properties of the permit applicant.
- The project includes mitigation or has mitigation credits for wetland impacts caused by excavation exceeding 125 linear feet of shoreline in total.
- Compliance with specific use standards established by Coastal Resources Commission (CRC) rules.

Submission of a Major Development Coastal Area Management Act (CAMA) permit application for an upland basin project would constitute a complete application for purposes of water quality certification review by the DWR and no further information would be required unless the Director of DWR objects in writing or requests additional information necessary to evaluate compliance with water quality standards.

An applicant would be allowed to use innovative technology to maintain dissolved oxygen levels if the applicant provides financial assurance. No additional information would be required if the applicant provides a certification from a North Carolina licensed professional engineer that the proposed innovative technology is capable of attaining required dissolved oxygen levels in the upland basin.

Section 5.(b) would direct the Department to process an application for a Section 401 water quality certification pursuant to the Clean Water Act for an upland basin under an expedited process, which is currently allowed for maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund, certain projects related to electrical generation, and the distribution or transmission of energy or fuel.

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

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

BACKGROUND:

401 Certifications

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 Corps involving the discharge of dredged or fill material.
- FERC licenses for hydropower facilities and natural gas pipelines.

Ike McRee, Legislative Analysis Division, substantially contributed to this summary.