

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**SESSION LAW 2002-176
HOUSE BILL 1537**

AN ACT TO AMEND VARIOUS ENVIRONMENTAL LAWS TO: (1) EXTEND THE PILOT PROGRAM FOR INSPECTION OF ANIMAL WASTE MANAGEMENT SYSTEMS AND TO AMEND THE REPORTING REQUIREMENT FOR THE PILOT PROGRAM, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION; (2) PROVIDE THAT MEMBERS OF THE SOIL AND WATER CONSERVATION COMMISSION MAY HOLD CONCURRENT OFFICES CONSISTENT WITH THE PROVISIONS OF THE CONSTITUTION OF NORTH CAROLINA; (3) AUTHORIZE THE SOIL AND WATER CONSERVATION COMMISSION TO APPROVE GRANTS FOR SMALL WATERSHED PROJECTS RELATED TO DAM REHABILITATION AND IMPROVEMENT; (4) PROVIDE THAT MEMBERS OF THE ENVIRONMENTAL REVIEW COMMISSION WHO ARE NOT REELECTED TO THE GENERAL ASSEMBLY MAY COMPLETE THEIR TERM OF SERVICE ON THE COMMISSION; (5) PROVIDE THAT THE EASTERN BAND OF CHEROKEE INDIANS IN NORTH CAROLINA MAY RECEIVE FUNDS FROM THE CLEAN WATER REVOLVING LOAN AND GRANT FUND; (6) AUTHORIZE THE STATE INFRASTRUCTURE COUNCIL TO MEET IN THE LEGISLATIVE BUILDING AND LEGISLATIVE OFFICE BUILDING IN CERTAIN CIRCUMSTANCES; AND (7) AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO TRANSFER FUNDS FROM THE GENERAL WATER SUPPLY REVOLVING LOAN AND GRANT ACCOUNT TO THE EMERGENCY WATER SUPPLY REVOLVING LOAN ACCOUNT IN ORDER TO ASSIST WATER SUPPLY SYSTEMS EXPERIENCING A DROUGHT EMERGENCY.

The General Assembly of North Carolina enacts:

SECTION 1.1. Section 15.4(a) of S.L. 1997-443, as amended by Section 3.1 of S.L. 1999-329 and Section 5 of S.L. 2001-254, reads as rewritten:

"(a) The Department of Environment and Natural Resources shall develop and implement a pilot program to begin no later than 1 November 1997, and to terminate 1 September ~~2002~~,2003, regarding the annual inspections of animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes. The Department shall select two counties located in a part of the State that has a high concentration of swine farms to participate in this pilot program. In addition, Brunswick County shall be added to the program. Notwithstanding G.S. 143-215.10F, the Division of Soil and Water Conservation of the Department of Environment and Natural Resources shall conduct inspections of all animal operations that are subject to a permit under Article 21 of Chapter 143 of the General Statutes in these three counties at least once a year to determine whether any animal waste management system is causing a violation of water quality standards and whether the system is in compliance with its animal waste management plan or any other condition of the permit. The personnel of the Division of Soil and Water Conservation who are to conduct these inspections in each of these three counties shall be located in an office in the county in which that person will be conducting inspections. As part of this pilot program, the Department of Environment and Natural Resources shall establish procedures whereby resources

within the local Soil and Water Conservation Districts serving the three counties are used for the quick response to complaints and reported problems previously referred only to the Division of Water Quality of the Department of Environment and Natural Resources."

SECTION 1.2. Section 3.3 of S.L. 1999-329, as amended by Section 6 of S.L. 2001-254, reads as rewritten:

"Section 3.3. The Department of Environment and Natural Resources, in consultation with both the Division of Water Quality and the Division of Soil and Water Conservation, shall submit interim reports no later than 15 October 1999, 15 April 2000, 15 October 2000, 15 April 2001, 15 October 2001, ~~and 15 April 2002~~2002, and 15 April 2003 and shall submit a final report no later than ~~15 October 2002~~1 October 2003 to the Environmental Review Commission and to the Fiscal Research Division. These reports shall indicate whether the pilot program has increased the effectiveness of the annual inspections program or the response to complaints and reported problems, specifically whether the pilot program had resulted in identifying violations earlier, taking corrective actions earlier, increasing compliance with the animal waste management plans and permit conditions, improving the time to respond to discharges, complaints, and reported problems, improving communications between farmers and Department employees, and any other consequences deemed pertinent by the Department. These reports shall also compare the costs of conducting operations reviews and inspections under the pilot program with the costs of conducting operations reviews and inspections pursuant to G.S. 143-215.10D and G.S. 143-215.10F. The final report shall include a recommendation as to whether to continue or expand the pilot program under this act. The Environmental Review Commission may recommend to the 2003 General Assembly whether to continue or expand the pilot program under this act and may make any related legislative proposals."

SECTION 2. G.S. 143B-295 reads as rewritten:

"§ 143B-295. Soil and Water Conservation Commission – members; selection; removal; compensation; quorum; services.

(a) The Soil and Water Conservation Commission of the Department of Environment and Natural Resources shall be composed of seven members appointed by the Governor. The Commission shall be composed of the following members:

- (1) The president, first vice-president, and immediate past president of the North Carolina Association of Soil and Water Conservation Districts. Vacancies arising in any of these positions shall be filled through appointment by the Governor upon the nomination by the executive committee of the North Carolina Association of Soil and Water Conservation Districts;
- (2) Three supervisor members nominated by the North Carolina Association of Soil and Water Conservation Districts from its own membership representing the three major geographical regions of the State and appointed by the Governor;
- (3) One member appointed at large by the Governor.

~~(b) The initial members of the Commission shall be the members of the Soil Conservation Committee who shall serve for a period equal to the remainder of their current terms on the Soil Conservation Committee. At the end of the respective terms of office of the initial members of the Commission, their successors, The members of the Commission, except those members serving in an ex officio capacity, shall be appointed for terms of three years and shall serve until their successors are appointed and qualified. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.~~

(c) The office of member of the Soil and Water Conservation Commission may be held concurrently with any other elected or appointed office, as authorized by G.S. 128-1.1 and Article VI, Section 9, of the Constitution of North Carolina.

(d) The Governor shall have the power to remove any member of the Commission from office for misfeasance, malfeasance, and nonfeasance according to the provisions of ~~G.S. 143B-13 of the Executive Organization Act of 1973.~~ G.S. 143B-13.

(e) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the Commission shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Commission shall be supplied by the Secretary of Environment and Natural Resources."

SECTION 3. G.S. 139-54 reads as rewritten:

"§ 139-54. Purposes for which grants may be requested.

Applications for grants may be made for the nonfederal share of small watershed projects for the following purposes in amounts not to exceed the percentage of the nonfederal costs indicated:

- (1) Land rights acquisition for impounding or retarding water – fifty percent ~~(50%);(50%)~~.
- (2) Engineering fees – fifty percent ~~(50%);(50%)~~.
- (3) Anticipated future and present water supply needs in conjunction with watershed improvement works or projects as described in G.S. 139-37.1 – fifty percent ~~(50%);(50%)~~.
- (4) Installation of recreational facilities and services (to include land acquisition) as described in G.S. 139-46 – fifty percent ~~(50%);(50%)~~.
- (5) Construction costs for water management (drainage or irrigation) purposes, including utility and road relocations not funded by the State Department of Transportation – sixty-six and two-thirds percent ~~(66 2/3%);(66 2/3%)~~.
- (6) Conservation and replacement of fish and wildlife habitat as described in G.S. 139-46 – seventy-five percent (75%).
- (7) Rehabilitation or improvement of water resources structural measures in accordance with criteria established by the Natural Resources Conservation Service of the United States Department of Agriculture pursuant to the Watershed Protection and Flood Prevention Act of 1954, as amended by the Small Watershed Rehabilitation Amendments of 2000 (Pub. L. No. 106-472, 114 Stat. 2007), codified at 16 U.S.C. § 1001, et. seq.; the Dam Safety Law of 1967, G.S. 143-215.23, et. seq.; and rules adopted pursuant thereto – fifty percent (50%).

SECTION 4. G.S. 120-70.42 reads as rewritten:

"§ 120-70.42. Membership; cochairs; vacancies; quorum.

(a) The Environmental Review Commission shall consist of six Senators appointed by the President Pro Tempore of the Senate, six Representatives appointed by the Speaker of the House of Representatives, who shall serve at the pleasure of their appointing officer, the Chair of the Senate Committee on ~~Environment-Agriculture, Environment, and Natural Resources, Resources or the equivalent committee,~~ and the Chair of the House of Representatives Committee on ~~the Environment.~~ Environment and Natural Resources or the equivalent committee.

(b) The President Pro Tempore of the Senate shall designate one Senator to serve as cochair and the Speaker of the House of Representatives shall designate one Representative to serve as cochair.

(c) Except as otherwise provided in this subsection, a member of the Commission shall continue to serve for so long as the member remains a member of the General Assembly and no successor has been appointed. A member of the Commission who does not seek reelection or is not reelected to the General Assembly may complete a term of service on the Commission until the day on which a new General Assembly convenes. A member of the Commission who resigns or is removed from service in the

General Assembly shall be deemed to have resigned or been removed from service on the Commission. Any vacancy which—that occurs on the Environmental Review Commission shall be filled in the same manner as the original appointment.

(d) A quorum of the Environmental Review Commission shall consist of eight members."

SECTION 5. G.S. 159G-3(10) reads as rewritten:

"(10) 'Local government unit' means a county, city, town, incorporated village, consolidated city-county, as defined by G.S. 160B-2(1), including such a consolidated city-county acting with respect to an urban service district defined by a consolidated city-county, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, joint agency authorized by agreement between two cities and towns to operate an airport pursuant to G.S. 63-56 and that also provided water and wastewater services off the airport premises before January 1, 1995, ~~or~~ joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, ~~Statutes,~~ or the Eastern Band of Cherokee Indians in North Carolina."

SECTION 6. G.S. 143B-344.32 reads as rewritten:

"§ 143B-344.32. Staff and offices.

The Department of Environment and Natural Resources shall provide office space and staff for the State Infrastructure Council as requested by the Council. Upon the request of a chair of the State Infrastructure ~~Council,~~ Council who is also a member of the General Assembly, the Legislative Services Office shall also provide professional staff services to the Council. Upon the request of a chair of the State Infrastructure Council who is also a member of the General Assembly, the Council may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission."

SECTION 7. G.S. 159G-6(c) reads as rewritten:

"(c) Water Supply Accounts. – The sums allocated in G.S. 159G-4 and accruing to the various Water Supply Accounts in each fiscal year shall be used to provide revolving loans and grants to applicants as provided below. The Department of Environment and Natural Resources shall disburse no funds from the Water Supply Accounts except upon receipt of written approval of the disbursement from the ~~Division of Environmental Health,~~ Secretary of Environment and Natural Resources.

- (1) General Water Supply Revolving Loan and Grant Account. – The funds in the General Water Supply Revolving Loan and Grant Account shall be used exclusively for the purpose of providing for revolving construction loans and grants in connection with water supply systems generally and not upon a county allotment basis.
- (2) High-Unit Cost Water Supply Account. – The funds in the High-Unit Cost Water Supply Account shall be available for grants to applicants for high-unit cost water supply systems, on the same basis as provided in G.S. 159G-6(b)(2) for high-unit cost wastewater projects.
- (3) Emergency Water Supply Revolving Loan Account. – The funds in the Emergency Water Supply Revolving Loan Account shall be available for revolving emergency loans to applicants in the event the ~~Division of Environmental Health,~~ Secretary of Environment and Natural Resources certifies either that a serious public health hazard, related to the water supply system, or that a drought emergency is present or imminent in a community.
- (4) Inter-Account Transfers. – The Department of Environment and Natural Resources may transfer funds from the General Water Supply Revolving Loan and Grant Account to the Emergency Water Supply revolving Loan Account in the event that the Secretary of Environment

and Natural Resources certifies that a drought emergency exists and that additional emergency funds are needed to assist water supply systems that are experiencing a drought emergency."

SECTION 8. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 2nd day of October, 2002.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 1:47 p.m. this 31st day of October, 2002