

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 189
Committee Substitute Favorable 1/10/18
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
2/7/18
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Short Title: Water Safety Act.

(Public)

Sponsors:

Referred to:

February 27, 2017

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT MEASURES TO ADDRESS "GENX" AND OTHER
EMERGING CONTAMINANTS.

The General Assembly of North Carolina enacts:

DIRECT THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO CONSULT WITH FEDERAL AGENCIES, AS WELL AS THE NORTH CAROLINA POLICY COLLABORATORY AT THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, WHICH SHALL COORDINATE RELEVANT FACULTY EXPERTISE IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM, ON THE PROCESS FOR THE ESTABLISHMENT OF HEALTH GOALS FOR PER- AND POLY-FLUOROALKYL SUBSTANCES

SECTION 1. The Department of Health and Human Services shall consult with the United States Environmental Protection Agency, the Centers for Disease Control and Prevention, the Agency for Toxic Substances and Disease Registry, as well as the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill, which shall coordinate with faculty experts across The University of North Carolina System, including the University of North Carolina at Wilmington and the Gillings Global School of Public Health of the University of North Carolina at Chapel Hill, on the Department's process for the establishment of health goals for per- and poly-fluoroalkyl substances.

DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COOPERATE WITH ANY UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AUDIT OF THE DEPARTMENT'S NPDES PERMIT PROGRAM

SECTION 2. The Department of Environmental Quality shall cooperate with any audit of its National Pollutant Discharge Elimination System (NPDES) permitting program by the United States Environmental Protection Agency (USEPA). In the event of an audit, the Department shall specifically work with the USEPA to examine the adequacy of the Department's NPDES permitting program.

REVIEW NPDES PERMIT PROGRAM

SECTION 3. The Department of Environmental Quality shall review its National Pollutant Discharge Elimination System (NPDES) permitting program from October 19, 1975,



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1 the date on which the Department assumed authority to implement the program under
2 delegation from the United States Environmental Protection Agency pursuant to section 402(b)
3 of the federal Clean Water Act and 40 C.F.R. Part 123, to the effective date of this act. In
4 conducting its review, the Department shall examine:

- 5 (1) Requirements for persons applying for individual NPDES permits to fully
6 disclose in applications for new permits, permit renewals, or permit
7 modifications, all pollutants, including emerging contaminants for which an
8 applicable discharge standard has not been established under State or federal
9 law, included in their discharge.
- 10 (2) Existing processes for developing standards or limitations for emerging
11 contaminants for which an applicable discharge standard has not previously
12 been established under State or federal law, included in a permittee's
13 discharge.
- 14 (3) Internal permit review processes to ensure thorough and timely review of
15 permit applications.
- 16 (4) The time required to process all NPDES permit applications that are
17 received by the Department. The examination of processing time shall
18 include (i) the total processing time from when an initial permit application
19 is received to issuance or denial of the permit and (ii) the processing time
20 from when a complete permit application is received to issuance or denial of
21 the permit.

22 The Department shall submit a final report with findings, including any steps the
23 Department plans to take to improve the Department's implementation of the program, to the
24 House Select Committee on North Carolina River Quality, the Senate Select Committee on
25 North Carolina River Water Quality, and the Environmental Review Commission no later than
26 June 1, 2018. In accordance with Section 2 of this act, the Department shall include any
27 information related to an audit of its NPDES permitting program by the USEPA in the report.

29 **DIRECT THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO COORDINATE** 30 **AND SHARE WATER QUALITY DATA WITH STATES IN THE REGION**

31 **SECTION 4.** Article 21 of Chapter 143 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 143-215.1D. Coordination with neighboring states.**

34 The Department of Environmental Quality shall coordinate with the Georgia Department of
35 Natural Resources, the South Carolina Department of Health and Environmental Control, the
36 Tennessee Department of Environment and Conservation, the Virginia Department of
37 Environmental Quality, and the West Virginia Department of Environmental Protection to
38 improve processes for sharing information about contaminants identified in surface water or
39 groundwater shared by or passing or flowing across the border of those states and this State. As
40 needed, the Department shall share with those agencies water quality data for, and information
41 about any contaminant identified in, surface water or groundwater shared by or passing or
42 flowing across the border of those states and this State."

44 **GENX FUNDING/USE OF MASS SPECTROMETERS AVAILABLE IN THE** 45 **UNIVERSITY OF NORTH CAROLINA SYSTEM**

46 **SECTION 5.** The General Assembly finds that relevant faculty expertise,
47 technology, and instrumentation, including mass spectrometers, existing throughout The
48 University of North Carolina System should be made available for the analysis of water quality
49 sampling with respect to the discharge of the poly-fluoroalkyl chemical known as "GenX"
50 (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, and that
51 repurposing existing funds to facilitate these activities is an efficient utilization of State funds

1 and resources. In addition, the General Assembly finds that relevant faculty expertise,
2 technology, and instrumentation, including mass spectrometers, existing throughout The
3 University of North Carolina System should be made available for related research on
4 improved water quality sampling and analysis techniques, data interpretation, and potential
5 mitigation measures that may be necessary, with respect to the discharge of the
6 poly-fluoroalkyl chemical known as "GenX" (CAS registry number 62037-80-3 or
7 13252-13-6), and other emerging contaminants, and that repurposing existing funds to facilitate
8 these activities is an efficient utilization of State funds and resources.

9 **SECTION 6.(a)** In the event that the United States Environmental Protection
10 Agency no longer provides access to its analytical instrumentation at no cost to the State for
11 water quality sampling analysis related to the poly-fluoroalkyl chemical known as "GenX"
12 (CAS registry number 62037-80-3 or 13252-13-6), and other emerging contaminants, or if the
13 Department of Environmental Quality determines that such analysis is not being performed in a
14 sufficiently timely manner, the North Carolina Policy Collaboratory at the University of North
15 Carolina at Chapel Hill shall coordinate such analysis in the most cost-effective manner using
16 relevant faculty expertise, technology, and instrumentation, including mass spectrometers,
17 existing throughout The University of North Carolina System. The Collaboratory, in
18 consultation with the Department and relevant experts across The University of North Carolina
19 System, including the University of North Carolina at Wilmington and the Environmental
20 Sciences and Engineering Department within the Gillings Global School of Public Health of
21 the University of North Carolina at Chapel Hill, shall establish a protocol for delivery of such
22 samples taken by the Department to the entity designated to perform analysis of the samples,
23 chain of custody protocols, and other matters to ensure proper handling and processing of the
24 samples.

25 **SECTION 6.(b)** The North Carolina Policy Collaboratory at the University of
26 North Carolina at Chapel Hill shall identify faculty expertise within The University of North
27 Carolina System, and use technology, and instrumentation, including mass spectrometers,
28 existing throughout The University of North Carolina System, to conduct the following
29 research: (1) develop quantitative models to predict which private wells are most at risk of
30 contamination from the discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS
31 registry number 62037-80-3 or 13252-13-6), and other emerging contaminants; (2) test the
32 performance of household water filters in removing such compounds; and (3) study the air
33 emissions and atmospheric deposition of GenX and other emerging compounds. In addition, the
34 Collaboratory may, using relevant faculty expertise, technology, and instrumentation existing
35 throughout The University of North Carolina System, evaluate other research opportunities and
36 conduct such research for improved water quality sampling and analyses techniques, data
37 interpretation, and potential mitigation measures that may be necessary, with respect to the
38 discharge of the poly-fluoroalkyl chemical known as "GenX" (CAS registry number
39 62037-80-3 or 13252-13-6), and other emerging contaminants.

40 **SECTION 6.(c)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by
41 Section 10.4 of S.L. 2017-57, the North Carolina Policy Collaboratory is authorized to use for
42 the purposes set forth in this act no more than one million dollars (\$1,000,000) for the
43 2017-2018 fiscal year and no more than one million dollars (\$1,000,000) for the 2018-2019
44 fiscal year of the funds appropriated for the 2016-2017 fiscal year to the Office of State Budget
45 and Management, Special Appropriations, and allocated to the Board of Trustees of the
46 University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory.
47 Funds reallocated by this section shall not revert but shall continue to be available as provided
48 in this act.

49 **SECTION 6.(d)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by
50 Section 10.4 of S.L. 2017-57, no match is required for funds reallocated by this section.
51

FUNDS TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY

SECTION 7.(a) The sum of two million four hundred thousand dollars (\$2,400,000) in nonrecurring funds for the 2017-2018 fiscal year shall be appropriated from the unappropriated balance remaining in the General Fund to the Department of Environmental Quality to implement this act. Of the funds provided to the Department of Environmental Quality by this section, eight hundred thirteen thousand dollars (\$813,000) may be allocated to the Division of Water Resources for nonrecurring expenses for time-limited positions and operations support (1) for the collection of air and water quality samples related to GenX and other emerging contaminants that are delivered to the USEPA or to an entity designated to perform analysis of the samples by the North Carolina Policy Collaboratory at the University of North Carolina at Chapel Hill in accordance with Section 6(a) of this act and (2) to address NPDES permitting backlogs. The Department of Environmental Quality shall report no later than June 1, 2018, and quarterly thereafter, to the Joint Legislative Committee on Governmental Operations on how funds appropriated under this section will be and are being used.

SECTION 7.(b) Section 2.1 of S.L. 2017-57, as amended by Section 1.1 of S.L. 2017-197, reads as rewritten:

"SECTION 2.1. Appropriations from the General Fund of the State for the maintenance of the State departments, institutions, and agencies, and for other purposes as enumerated, are made for the fiscal biennium ending June 30, 2019, according to the following schedule:

Current Operations – General Fund	FY 2017-2018	FY 2018-2019
...		
NATURAL AND ECONOMIC RESOURCES		
...		
Department of Environmental Quality	<u>78,170,327</u> <u>80,570,327</u>	77,012,714
...		
TOTAL CURRENT OPERATIONS –		
GENERAL FUND	\$ <u>22,980,769,893</u><u>22,983,169,893</u>	\$ <u>23,650,253,958</u>"

SECTION 7.(c) Section 2.2(a) of S.L. 2017-57 reads as rewritten:

"SECTION 2.2.(a) The General Fund availability used in developing the 2017-2019 fiscal biennial budget is shown below:

	FY 2017-2018	FY 2018-2019
Unappropriated Balance	\$ 208,607,416	\$ <u>499,303,328</u> <u>496,903,328</u>
...		
Revised Unappropriated Balance	108,607,416	<u>499,303,328</u><u>496,903,328</u>
...		
Beginning Unreserved Fund Balance	471,279,046	<u>499,303,328</u><u>496,903,328</u>
...		
Total General Fund Availability	23,623,979,046	<u>24,634,803,328</u><u>24,632,403,328</u>
...		
Revised General Fund Availability	\$ 23,529,781,221	\$ <u>24,022,005,283</u><u>24,019,605,283</u>
Less General Fund Net		
Appropriations	(<u>23,030,477,893</u>)(<u>23,032,877,893</u>)	(23,652,171,951)
Unappropriated Balance		
 Remaining	\$ <u>499,303,328</u><u>496,903,328</u>	\$ <u>369,833,332</u><u>367,433,332</u>"

1 **SECTION 7.(d)** Nonrecurring funds appropriated by this act for the 2017-2018
2 fiscal year shall not revert but shall remain available for nonrecurring expenses, including the
3 establishment of time-limited positions, through June 30, 2019.
4

5 **EFFECTIVE DATE**

6 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
7 law.