

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

HOUSE BILL 220  
RATIFIED BILL

AN ACT TO LIMIT CITIES AND COUNTIES FROM PROHIBITING CONSUMER CHOICE OF ENERGY SERVICE BASED UPON THE TYPE OR SOURCE OF ENERGY TO BE DELIVERED, TO MODIFY PUBLIC RECORDS LAW REGARDING SENSITIVE PUBLIC SECURITY INFORMATION, TO AUTHORIZE THE UTILITIES COMMISSION TO ADOPT PROCEDURES TO ALLOW LESSORS WHO PROVIDE WATER AND SEWER SERVICE TO LESSEES IN CERTAIN DWELLINGS TO CHARGE FOR THE COST OF THE SERVICE IN THE SAME MANNER AS ELECTRIC SERVICE AND NATURAL GAS SERVICE, AND TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

**"§ 160A-205.4. Limitations on regulation of energy choice.**

(a) A city shall not adopt an ordinance that prohibits, or has the effect of prohibiting, the connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service.

(b) As used in this section, "energy service" means the energy source that a consumer may choose to use to heat or cool buildings, produce hot water, operate equipment, operate appliances, or any other similar activities, where the energy source is derived from one or more of a variety of sources such as natural gas, renewable gas, hydrogen, liquefied petroleum gas, renewable liquefied petroleum gas, or other liquid petroleum products and that is delivered to the consumer by an entity legally authorized to provide such service or electricity that is derived from one or more sources of electric generation and is delivered to the consumer by an entity legally authorized to provide such service and the distribution of the electricity occurs according to the territorial rights established by G.S. 62-110.2, 160A-331.2, or 160A-332. For purposes of this section, the terms "renewable gas" and "renewable liquefied petroleum gas" shall mean gas derived from a renewable energy resource, as that term is defined by G.S. 62-133.8(a)(8).

(c) Nothing in this section shall be construed to (i) limit the ability of a city to choose the energy service for property owned by the city, (ii) prohibit a city from recovering reasonable costs associated with reviewing and issuing a permit, (iii) affect the authority of a city to manage or operate a city-owned utility, including a city's authority to require persons residing within their jurisdictions to obtain energy service from a city-owned utility or a joint municipal power agency of which they are a member, or (iv) impair a contract executed pursuant to G.S. 160A-322 prior to the effective date of this section for the supply of electric service."

**SECTION 1.(b)** Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:

**"§ 153A-145.8. Limitations on regulation of energy choice.**

(a) A county shall not adopt an ordinance that prohibits, or has the effect of prohibiting, the connection, reconnection, modification, or expansion of an energy service based upon the



type or source of energy to be delivered to an individual or any other person as the end-user of the energy service.

(b) As used in this section, "energy service" means the energy source that a consumer may choose to use to heat or cool buildings, produce hot water, operate equipment, operate appliances, or any other similar activities, where the energy source is derived from one or more of a variety of sources such as natural gas, renewable gas, hydrogen, liquefied petroleum gas, renewable liquefied petroleum gas, or other liquid petroleum products and that is delivered to the consumer by an entity legally authorized to provide such service or electricity that is derived from one or more sources of electric generation and is delivered to the consumer by an entity legally authorized to provide such service and the distribution of the electricity occurs according to the territorial rights established by G.S. 62-110.2, 160A-331.2, or 160A-332. For purposes of this section, the terms "renewable gas" and "renewable liquified petroleum gas" shall mean gas derived from a renewable energy resource, as that term is defined by G.S. 62-133.8(a)(8).

(c) Nothing in this section shall be construed to (i) limit the ability of a county to choose the energy service for property owned by the county, (ii) prohibit a county from recovering reasonable costs associated with reviewing and issuing a permit, or (iii) affect the authority of a county to manage or operate a county-owned utility, including a county's authority to require persons residing within their jurisdictions to obtain energy service from a county-owned utility."

**SECTION 2.** G.S. 132-1.7 reads as rewritten:

**"§ 132-1.7. Sensitive public security information.**

(a) Public records, as defined in G.S. 132-1, shall not include any of the following:

- (1) ~~information~~-Information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities or plans, facilities, including detailed plans and drawings contained in, or capable of being produced from, information storage systems or geographic information system databases.
- (2) Plans, schedules, or other documents that include information regarding patterns or practices associated with executive protection and security.
- (3) Specific security information or detailed plans, patterns, or practices associated with prison operations.
- (4) Specific security information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or organized illegal activity.
- (5) Specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure, whether physical or virtual, for any of the following:
  - a. The production, generation, transmission, or distribution of energy.
  - b. The treatment, transmission, or distribution of water.
  - c. The outfall, collection, or treatment of wastewater.

~~(a1) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices associated with prison operations.~~

~~(a2) Public records, as defined in G.S. 132-1, shall not include specific security information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or organized illegal activity.~~

...."

**SECTION 3.** If House Bill 218, 2021 Regular Session, becomes law, then G.S. 143-214.7(b3), as amended by Section 1(b) of that act, reads as rewritten:

"(b3) Stormwater runoff rules and programs shall not require private property owners to install new or increased stormwater controls for (i) preexisting development or (ii) redevelopment activities that do not remove or decrease existing stormwater controls. When a preexisting development is redeveloped, either in whole or in part, increased stormwater controls shall only be required for the amount of impervious surface being created that exceeds the amount

of impervious surface that existed before the redevelopment. Provided, however, a property owner may voluntarily elect to treat all stormwater from preexisting development or redevelopment activities described herein for the purpose of exceeding allowable density under the applicable water supply watershed rules as provided in ~~G.S. 214.5(d3)~~. G.S. 143-214.5(d3). This subsection applies to all local governments regardless of the source of their regulatory authority. Local governments shall include the requirements of this subsection in their stormwater ordinances."

**SECTION 4.** G.S. 62-110 reads as rewritten:

**"§ 62-110. Certificate of convenience and necessity.**

...

(g) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, for the purpose of encouraging water conservation, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of any leased residential premises, as that term is defined under G.S. 42-59(3), to charge for the costs of providing water or sewer service to persons who occupy the leased premises. The following provisions shall apply:

(1) ~~All~~ Except as provided in subdivisions (1a), (1b), and (1c) of this subsection, all charges for water or sewer service shall be based on the user's metered consumption of water, which shall be determined by metered measurement of all water consumed. The rate charged by the lessor shall not exceed the unit consumption rate charged by the supplier of the service.

...

(1b) Notwithstanding the provisions of subdivisions ~~(1) and (1a)-(1), (1a), and (1c)~~ of this subsection, if the Commission approves a flat rate to be charged by a water or sewer utility for the provision of water or sewer services to contiguous dwelling units, the lessor may pass through and charge the tenants of the contiguous dwelling units the same flat rate for water or sewer services, rather than a rate based on metered consumption, and an administrative fee as authorized in subdivision (2) of this subsection. Bills for water and sewer service sent by the lessor to the lessee shall contain all the information required by sub-sub-subdivisions e.2. through e.5. of subdivision (1a) of this subsection.

(1c) The lessor may equally divide the amount of the water and sewer bill for a unit among all the lessees in the unit and may send one bill to each lessee. The amount charged shall be prorated when a lessee has not leased the unit for the same number of days as the other lessees in the unit during the billing period. Each bill may include an administrative fee up to the amount of the then-current administrative fee authorized by the Commission in Rule 18-6 for water service and, when applicable, a late fee in an amount determined by the Commission. The lessor shall not charge the cost of water and sewer from any other unit or common area in a lessee's bill sent pursuant to this subdivision.

...

(h) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of ~~a single family dwelling, residential building, or multiunit apartment complex~~ any leased residential premises, as that term is defined under G.S. 42-59(3), that has individually metered units for electric service in the lessor's name to charge for the actual costs of providing electric service to each lessee. The following provisions shall apply to the charges authorized under this subsection:

...

(i) In addition to the authority to issue a certificate of public convenience and necessity and establish rates otherwise granted in this Chapter, the Commission may, consistent with the public interest, adopt procedures that allow a lessor of ~~single-family dwelling, a residential building, or multiunit apartment complex~~ any leased residential premises, as that term is defined under G.S. 42-59(3), that has individually metered units for natural gas service in the lessor's name to charge for the actual costs of providing natural gas service to each lessee. The following provisions shall apply to the charges authorized under this subsection:

...."

**SECTION 5.** This act becomes effective January 1, 2022.

In the General Assembly read three times and ratified this the 30<sup>th</sup> day of November, 2021.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

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Roy Cooper  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2021