

The Daily Bulletin: Friday, August 15, 2014

PUBLIC/HOUSE BILLS

H 189 (2013-2014) **VARIOUS TAX LAW CHANGES (NEW)**. Filed Feb 28 2013, *A BILL TO BE ENTITLED AN ACT TO ALLOW DURHAM, ORANGE, FORSYTH, GUILFORD, MECKLENBURG, AND WAKE COUNTIES TO RETAIN A LOCAL SALES AND USE TAX CAP OF TWO AND THREE-QUARTERS PERCENT IF A MAJORITY OF VOTERS IN THOSE COUNTIES APPROVE THE LEVY OF A ONE-QUARTER PERCENT TAX IN A SPECIAL ELECTION HELD BY THE END OF 2016: TO CLARIFY THAT A FARMER'S INCOME FROM FARMING OPERATIONS FOR THE PURPOSE OF THE SALES AND USE TAX EXEMPTION IS GROSS SALES AND ALL OTHER INCOME FROM FARMING OPERATIONS; AND TO MAKE OTHER TECHNICAL CHANGES TO THE REVENUE LAWS.*

Conference report makes the following changes to the 4th edition:

Changes the short and long titles.

Deletes all of the provisions of the previous edition in their entirety.

Provides that if H 1224 becomes law then GS 105-506.4(b)(3), as enacted by H 1224, will amend the conditions for permitting the specified county's sales and use tax rate to exceed 2 1/2%, providing that the county must have conducted one or more advisory referendums on or before December 31, 2016, (was, December 31, 2014) in which a majority of the voters approved the levy of a local sales and use tax rate of 1/4% under Article 46 of GS Chapter 105.

Provides that if H 1224 becomes law then GS 105-537(e)(2), as enacted by H 1224, will amend the conditions for permitting the specified county's sales and use tax rate to exceed 2 1/2%, providing that the county must have conducted one or more advisory referendums on or before December 31, 2016, (was, December 31, 2014) in which a majority of the voters approved the levy of a local sales and use tax rate of 1/4% under Article 46 of GS Chapter 105.

Amends GS 105-164.13E, Exemption for Farmers, adding clarifying language that provides that for the purpose of this section, the term "income from farming operations" is to be considered to mean sales plus any other amounts treated as gross income under the Tax Code pursuant to Schedule F of Form 1040. Provides that a qualifying farmer is a person with an annual income from farming operations for the preceding taxable year of \$10,000 or more or who has an average annual income from farming operations for the three preceding taxable years of \$10,000 or more.

Amends GS 105-153.4, concerning NC taxable income, making technical corrections to statutory references. Clarifies apportioning of partnership income to multiple states. Makes other clarifying changes. Effective on or after January 1, 2014.

Amends GS 105-153.5, adding a provision that requires S Corporations subject to Part 1A, partnerships, and estates and trusts subject to Part 3 to add back state income tax deducted from federal income for state income tax purposes. Effective on or after January 1, 2014.

Deletes language in GS 105-164.13(62) that excluded the tax exemption from applying to an item used to maintain or repair tangible personal property pursuant to a service contract exempt from tax under GS 105-164.4I(b). Effective October 1, 2014.

Amends GS 105-187.52(c), exemptions, clarifying that the tax exemption in GS 105-164.13(62) does apply to an item used to maintain tangible personal property under a service contract exempt from tax under GS 105-164.4I(b)(4). However, also provides that the exemption does apply to an item used pursuant to a service contract that meets the definition of a service contract as defined in GS 105-164.3(38b) that was sold before January 1, 2014, but effective on

or after January 1, 2014.

Amends Section 4.1(g) of SL 2014-3 to provide that this Part applies to gross receipts derived from a prepaid meal plan sold or billed before July 1, 2014, if the plan is not authorized for use or available to the person until on or after August 1, 2014.

Intro. by Glazier, Stevens, L. Hall.

Durham, Forsyth, Guilford, Mecklenburg, Orange, Wake, GS
105

[View summary](#)

Government, Tax

PUBLIC/SENATE BILLS

S 734 (2013-2014) [REGULATORY REFORM ACT OF 2014 \(NEW\)](#). Filed May 14 2014, *AN ACT TO PROVIDE FURTHER REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY PROVIDING FOR VARIOUS ADMINISTRATIVE REFORMS, BY ELIMINATING CERTAIN UNNECESSARY OR OUTDATED STATUTES AND REGULATIONS AND MODERNIZING OR SIMPLIFYING CUMBERSOME OR OUTDATED REGULATIONS, AND BY MAKING VARIOUS OTHER STATUTORY CHANGES.*

Conference report makes the following changes to the 6th edition:

Eliminate, as Obsolete, the Small Business Contractor Authority, the Committee on Dropout Prevention, the State Education Committee, the State Education Commission, the National Heritage Area Designation Commission, the Governor's Management Council, the Board of Directors of the North Carolina Center for Nursing, and the Board of Corrections

Adds the repeal of GS 115C, Article 6B, titled "Dropout Prevention Grants."

Representation of Small Business Entities in Administrative Appeals

Amends GS 150B-23(a) to add that a business entity may represent itself in an administrative appeal using a non-attorney representative who is one or more of the following of the entity: (1) officer; (2) manager or member-manager, if the entity is a limited liability company; (3) employee whose income is reported on a W-2, if the entity authorizes the representation in writing; or (4) the owner, if the owner's interest in the entity is at least 25 percent and the entity authorizes the representation in writing. Makes the same additions to GS 105-290 (appeals to the Property Tax Commission).

Merchant Exemption from Locksmith Licensing

Deletes proposed changes to GS 74F-16(6).

Amends GS 74F-16 to clarify the exemption for merchants from locksmith licensing requirements, providing that merchants are specified as exempt if they are (1) lawfully duplicating keys or maintaining locks in the normal course of business, (2) maintaining a physical location in North Carolina, (3) maintaining a sales and use tax permit pursuant to GS 105-164.16, and (4) not representing themselves as locksmiths.

Permit Choice

Enacts new GS Chapter 143, Article 80, titled Permit Choice, providing that if a permit applicant submits a permit for any type of development but a rule or ordinance changes between the time the permit application was submitted and the permit was granted, then the permit applicant can choose which version of the rule or ordinance will apply to the permit. Applies to all development permits issued by the state and local governments; does not apply to any zoning permits. Enacts new GS 153A-320.1 and GS 160A-360.1, concerning permit choice, providing that if a rule or

ordinance changes between the time a permit application is submitted and a permit decision is made, then GS 143-750 will apply. Effective when the section becomes law and applies to permits for which a permit decision has not been made by that date.

Community College Brewing Course Waiver

Enacts new GS 18B-1114.6 to allow the holder of a brewing, distillation, and fermentation course authorization to (1) manufacture malt beverages on the school's campus or the school's contracted or leased property for providing instruction and education on making malt beverages; (2) possess malt beverages manufactured during the brewing, distillation, and fermentation program for the purpose of conducting malt beverage tasting seminars and classes; (3) sell malt beverages produced during the course to wholesalers or retailers upon obtaining a malt beverages wholesaler permit; and (4) sell malt beverages produced during the course, upon obtaining a permit. Limits the authorization for the course to community colleges or colleges offering a brewing, distillation, and fermentation program as a part of its curriculum. Allows the holder of the course authorization who obtains a malt beverage wholesaler permit to obtain a malt beverage special event permit and where the permit is valid, allows participation in approved events and selling at retail at those events any malt beverages produced incident to the operation of the program. Sets limitations on the events. Makes conforming changes to GS 18B-1114.5, GS 18B-1101, and GS 66-58.

Good Samaritan Law

Amends GS 90-21.14 to clarify that, in order to be exempt from liability, a person must voluntarily and without expectation of compensation provide first aid or emergency health care (previously, in order to be exempt from liability, the person must not receive compensation for services as an emergency medical care provider).

Pharmacy Benefits Management

Enacts new Article 56A, Pharmacy Benefits Management in GS Chapter 58. Provides that in order for a prescription drug to be placed on the maximum allowable cost price list, the drug must be available for purchase by pharmacies in the state from national or regional wholesalers, must not be obsolete and either (1) be listed as "A" or "B" rated in the most recent version of the US Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations or (2) have an "NR" or "NA" rating, or similar rating, by a nationally recognized reference. Requires a pharmacy benefits manager to remove a maximum allowable cost price for a prescription drug, or modify a maximum allowable cost price, as necessary for a cost of a prescription drug to remain consistent with changes in the national marketplace. Requires a review of the maximum allowable cost prices for removal or modification to be completed by the pharmacy benefits manager at least once every seven business days and any removal or modification to occur within seven business days. Requires a pharmacy benefits manager to provide a way for the contracted pharmacies to promptly review current prices within one business day of the change or removal. Effective January 1, 2015, and applies to contracts entered into, renewed, or amended on or after that date.

Requires the Department of Insurance, in collaboration with the Department of Commerce and the NC Board of Pharmacy, to study pharmacy benefits management company regulation. Specifies issues to be studied. Requires a report to the General Assembly by January 20, 2015.

Limited Food Services at Lodging Facilities

Amends GS 130A-247 to add that limited food service establishments includes lodging facilities serving only reheated food that has been pre-cooked. Amends GS 130A-148 to add lodging facilities that serve only reheated food that has been pre-cooked to those establishments that may be issued a limited food service establishment permit. Requires the Commission for Public Health to adopt rules to conform to these provisions.

Amend Hotel Carbon Monoxide Alarm Requirement

Repeals Section 19(c) of SL 2013-413, which was to become effective October 1, 2014, and was to require that carbon monoxide detectors receive primary power from the building's wiring where the wiring is served from a commercial source and receive power from a battery when the primary power source is interrupted. Makes conforming changes to

defunct effective dates in SL 2013-413.

Amends GS 143-138(b2), concerning carbon monoxide alarms (CMAs), providing updates to the requirements for CMAs in hotels, allowing, in lieu of requiring a CMA in a lodging establishment a carbon monoxide detection system, with detectors and audible notification appliances installed and properly maintained. Requires CMAs in every dwelling unit having a combustion (was, fossil fuel) heater. Makes the rules for lodging establishments also applicable to tourist homes providing accommodations for seven or more days, bed and breakfast inns, and homes. Defines combustion heater, appliance, or fireplace for use in this section.

Directs the Building Code Council (BCC) to modify the NC State Building Code (Code) to reflect and regulate the provisions of GS 143-138(b2) in new and existing lodging establishments. Provides that the BCC can establish more stringent rules regulating CMAs and detectors if so desired. Directs the BCC to modify the Code to include an annual inspection for the purpose of verifying compliance with GS 143-138(b2).

Outlines procedure for when a violation that poses an imminent hazard is discovered and is not corrected upon inspection. Procedures include the code official immediately contacting the local health director/designee for the county where the violation was discovered by verbal contact and also submitting a written report documenting the violation to said director. The local health director is then obligated to investigate and take appropriate action regarding the permit of the lodging establishment within one working day of the receipt of the written report.

Violations that are discovered but do not pose imminent hazards but are not corrected during an inspection are subject to a correction period of three working days during which the owner or operator can submit a notice, verbal or written, that the violation has been corrected. If the code official receives such notice, a re-inspection can be performed. If no such notice is received, the code official will submit a report to the local health director within three working days. The local health director is then obligated to investigate and take appropriate action regarding the permit of the lodging establishment.

Exempts property subject to GS 42-42 (Landlord to provide fit premises) or GS 42A-31 (Landlord to provide fit premises) from the requirements of GS 143-138(b2)(2) through (d).

Makes technical and conforming changes, updating language of GS 143-138(b2).

Amends GS 130A-248(g), deleting language that required all hotels, motels, tourist homes, and other establishments that provide lodging for pay to install either a battery-operated or electric carbon monoxide detector in every enclosed space meeting specified conditions. Provides new language that requires those establishments to comply with requirements of GS 143-138(b2)(2). Provides that after receiving notification of a violation of GS 143-138(b2)(2) by a specified code official, the local health department can suspend permits issued pursuant to GS 130A-248.

Requires the Building Code Council, by March 31, 2015, to adopt a rule to amend the NC State Building Code (Fire Prevention) as it applies to structures required to comply with GS 143-138(b2)(2), as amended, to adopt the standards for carbon monoxide alarms in the 2015 International Fire Code. The effective date of the rule must be no later than June 1, 2015.

Contested Cases for CAMA Permits

Amends GS 113A-121.1(c) to provide that when an applicant seeks administrative review of a decision concerning a minor or major development permit under subsection (a) of this section, the permit is suspended from the time that a person seeks administrative review of the decision until the Commission makes a final decision in the contested case and no action may be taken during that time that would be unlawful in the absence of a permit. Adds subsection (d) to provide that a permit challenged under subsection (b) remains in effect unless a stay is issued by the administrative law judge or by a reviewing court.

Open Burning

Provides that no air quality permit is required for the open burning of leaves, logs, stumps, tree branches, or yard

trimmings if the six specified conditions are met, including that there are no public pickup services available, that the burning occurs within the specified time of day, and that the burning does not create a nuisance. Requires the Commission to adopt a rule amending current rules that is substantively identical to these provisions. The provisions expire on the date that the adopted rules become effective. Exempts the rules from Part 3 of Article 2A of GS Chapter 150B and provides that the rules become effective as though 10 or more written objections had been received. Requires that the current rule for open burning without an air quality permit be implemented as provided in these provisions until the effective date of the revised rule.

Amends GS 143-215.112 to prohibit a local air pollution control program from limiting or regulating any combustion heater, appliance, or fireplace in private dwellings.

Amends GS 160A-193 to add that the authority granted by the statute (concerning the abatement of public health nuisances) does not authorize the application of a city ordinance banning or limiting outdoor burning to persons that live within one mile the city, unless the city provides those individuals with either trash and yard waste collection services or access to solid waste drop-off sites on the same basis as city residents.

Provides that the provision and requirements applicable to any grandfathered development activity subject to (a)(2) of 15A NCAC 02H .1005 is also applicable to an expansion of the development activity. Defines grandfathered development activity. Requires the adoption of a rule to amend 15A NCAC 02H .1005 consistent with the bill requirements.

Amend Transplanting of Oysters and Clams Statute

Amends GS 113-203 to also make it unlawful to (1) transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification; (2) transplant oysters or clams from public grounds or permitted aquaculture operations using waters in the restricted or conditionally approved classification to private beds except when the transplanting is done in accordance with the provisions of the statute and implementing rules (was, it is not unlawful to transplant oysters taken from public grounds to private beds when it is done in accordance with the statute and implementing rules); and (3) transplant oysters or clams taken from permitted aquaculture operations to private beds except from waters in the approved classification.

Makes it unlawful to transplant seed oysters or seed clams taken from permitted aquaculture operations using waters in the restricted or conditionally approved classification to private beds pursuant to an Aquaculture Seed Transplant Permit that set times during which transplant is allowed and other reasonable restrictions when (1) transplanting seed clams less than 12 millimeters in their largest dimension or (2) transplanting seed oysters less than 25 millimeters in their largest dimension. Also makes it unlawful to conduct a seed transplanting operation under these provisions if the operation is not conducted in compliance with its permit.

Amends the statute to make it legal to transplant from public bottoms to private beds (was, to transplant to private beds) oysters or clams taken from waters in the restricted or conditionally approved classifications (was, from polluted waters) with a permit setting out specified types of restrictions.

Exempt Construction and Demolition Landfills from the Minimum Financial Responsibility Requirements Applicable to Other Solid Waste Management Facilities

Amends GS 130A-295.2 to require owners or operators of a sanitary landfill for the disposal of construction and demolition debris waste to establish financial assurance sufficient to cover at least \$1 million in costs for potential assessment and corrective action. Makes conforming changes.

On-Site Wastewater Approval Clarification

Amends GS 130A-343 to add that in considering the application by a manufacturer of a wastewater system using expanded polystyrene synthetic aggregate particles as a septic effluent dispersal medium for approval of the system under the statute, an application may not be conditioned, delayed, or denied based on the particle or bulk density of the expanded polystyrene materials. Requires the reissuance of approvals already issued that include conditions or

requirements related to the particle or bulk density of the expanded polystyrene material. The reissued approval must delete the conditions and requirements related to the density of the expanded polystyrene material. Provides that until the reissuance of approvals, conditions or requirements in existing approvals relating to the particle or bulk density of expanded polystyrene have no further force or effect.

Reform Agency Review of Engineering Work

Requires each Regulatory Authority to, by December 1, 2014, review and make any necessary revisions to its procedures for review of Regulatory Submittals, defined as an application to a Regulatory Authority for a permit, license, or approval; for local governments, an application to a program approved by or delegated from the Department of Environment and Natural Resources (DENR) or Department of Health and Human Services (DHHS). *Regulatory Authority* is defined as DENR, DHHS, and any local government operating a program that (1) grants permits, licenses, or approvals to the public and (2) is either approved by or delegated from DENR or DHHS. Sets out goals of the review and revision process, including standardizing the provision of review and comments on Regulatory Submittals. Requires each Regulatory Authority, by December 1, 2014, to create a process for each regulatory program it administers for an informal internal review at the Submitting Party's request in the following circumstances: (1) the inclusion in a Regulatory Submittal of a design or practice sealed by a Professional Engineer but not included in the Regulatory Authority's existing guidance, manuals, or standard operating procedures (sets out procedures for the review); (2) a disagreement between the reviewer of the Submittal and the Submitting Party regarding whether the authority identified by the Authority for revisions or requests for additional information designated as required justifies a required change.

Requires DENR, by March 1, 2015, to complete a pilot study on the Pretreatment, Emergency Response and Collection System (PERCS) wastewater collection system permitting program and the stormwater permitting program and perform specified activities with cooperation of the NC Board of Examiners for Engineers and Surveyors and the Professional Engineers of North Carolina. Requires a report to the Environmental Review Commission (ERC) by April 15, 2015.

Requires each Regulatory Authority, by December 1, 2014, to (1) review the working job titles of every employee with duties that include the review of Regulatory Submittals and (2) propose revisions to the titles or other measures that will eliminate the public identification as engineers of people conducting reviews who are not engineers.

Requires each Regulatory Authority to report to the ERC before the convening of the 2015 Session of the General Assembly on implementation of the standardized procedures, informal review process, and job title review. Requires annual reports to the ERC beginning in 2016; the reporting requirement expires on January 1, 2019.

Speed Limit Waiver in State Parks and Forests

Amends GS 143-116.8 to allow a person to petition DENR, or the Department of Agriculture and Consumer Services, for a waiver allowing the person to operate a vehicle in the state parks road system, or the state forests road system, as applicable, at a speed exceeding 25 miles per hour in connection with a special event. Allows conditions to be imposed on the waiver and requires a provision requiring that the recipient execute an indemnification agreement and obtain general liability insurance in an amount not to exceed \$3 million covering personal injury and property damage that may result from the higher speed.

Scope of Local Authority for Ordinances

Repeals Section 10.2 of SL 2013-413, which placed temporary limitations on the enactment of environmental ordinances by local governments and required a related study. Requires the Department of Agriculture and Consumer Services (DACS) and the Department of Environment and Natural Resources (DENR) to report to the Environmental Review Commission by November 1 of 2014 and 2015 on any local government ordinances that impinge or interfere with areas regulated by those departments. Requires DENR and DACS to receive input from the public regarding any local government ordinances that impinge on or interfere with any area subject to regulation by the department.

Fee Rollback for Oyster Permits Under Private Docks

Repeals GS 113-210(m), concerning the advance sale of Under Dock Oyster Culture permits. Effective July 1, 2014.

Local Government Leases for Renewable Energy Facilities

Amends GS 160A-272 to allow a city council to approve a lease for the siting and operation of a renewable energy facility for up to 25 (was, 20) years without treating the lease as a sale of property and without giving notice by publication. Makes the subsection statewide, deleting the provision limiting the provisions to 19 counties, cities, and towns.

Inlet Hazard Areas

Prohibits the Coastal Resources Commission from establishing any new and requires the repeal of any existing inlet hazard area where (1) the location is the former location of an inlet but the inlet has been closed for at least 15 years; (2) due to shoreline migration, the location no longer includes the current inlet location; and (3) the location includes an inlet providing access to a state port via a channel maintained by the US Army Corps of Engineers. Requires the Commission to adopt a rule amending current rules that is substantively identical to these provisions. The provisions expire on the date that the adopted rules become effective. Exempts the rules from Part 3 of Article 2A of GS Chapter 150B and provides that the rules become effective as though 10 or more written objections had been received. Requires that the current rule for AECs within ocean hazard areas be implemented as provided in these provisions until the effective date of the revised rule.

Hunting Trials

Requires the Wildlife Resources Commission to adopt rules to clarify the requirements in 15A NCAC 10B .0114 addressing which participants in retriever field trials are required to possess a hunting license. Requires holding public hearings and consulting with field trial groups.

Expedited IBT Process for Certain Reservoirs

Amends GS 143-215.22L (w) to add a petition for a certificate to withdraw or transfer water stored in any multipurpose reservoir constructed by the US Army Corps of Engineers and partially located in a state adjacent to North Carolina, provided the Corps of Engineers approved the withdrawal or transfer on or before July 1, 2014, to those that are to be considered and a determination made according to the specified procedures.

Eliminate Outdated Air Quality Reporting Requirement

Amends GS 143-215.3A to delete the requirement that DENR report to the Environmental Review Commission (ERC) and the Fiscal Research Division on the cost of the Title V program. Repeals sections 10, 11 as amended, 12, and 13 of SL 2002-4, concerning reductions in emissions of oxides of nitrogen (NOx) and sulfur dioxide (SO2) in relation to GS 143-215.107D and related reports, reports on issues related to monitor mercury emissions from coal-fired generating units and studying issues related to the implementation of plans to control emission of CO2, evaluating technologies, and estimating costs of alternative strategies. Repeals GS 143-215.108(g) (requiring any person who is required to hold a permit under this section to submit a written description of current and projected plans to reduce the emission of air contaminants under such permit by source reduction or recycling).

Clarifying Changes to Statutes Pertaining to the Management of Venomous Snakes and Other Reptiles

Amends GS 14-419 to require a museum or zoo that finds a seized reptile is a venomous reptile, large constricting snake, or crocodylian regulated under the Article to determine the final disposition of the reptile in a manner consistent with public safety, which in the case of a venomous reptile for which antivenin approved by the US Food and Drug Administration (was, antivenin) is not readily available, the reptile must be euthanized unless the species is protected under the federal Endangered Species Act of 1973 (was, may include euthanasia).

Reform On-Site Wastewater Regulation

Amends GS 130A-334 to add and define the term *ground absorption system*. Amends the definition of *plat* to provide that it also means, for subdivision lots approved by the local planning authority, if a local planning authority exists at the time of application for a permit under this Article, a copy of the subdivision plat that has been recorded with the county register of deeds and is accompanied by a site plan that is drawn to scale. Amends the term *wastewater system* to include a ground absorption system. Adds that a wastewater system located on multiple adjoining lots or tracts of land under common ownership or control must be considered a single system for purposes of permitting under this Article.

Amends GS 130A-335 to require the local health department, following the preconstruction conference, to advise the owner or developer of any rule changes for wastewater system construction that incorporates current technology that can reasonably be expected to improve the system's performance. Requires the local health department to issue a revised authorization for wastewater system construction incorporating the rule change, upon request.

Amends GS 130A-336 to remove the five-year limit on the authorization for wastewater system construction.

Repeal Waste Management Board Rules

Requires the Secretary of Environment and Natural Resources to repeal 15A NCAC Chapter 14 (Governor's Waste Management Board) on or before December 1, 2014. Prohibits implementing the rule until the effective date of the repeal.

Well Contractor Licensing Changes

Amends GS 87-43.1 to exclude from the Article (electrical contractors) the installation, construction, maintenance, or repair of electrical wiring, devices, appliances, or equipment by a person certified as a well contractor under GS Chapter 87, Article 7A, when running electrical wires from the well pump to the pressure switch.

Amends GS 87-98.6 to require the Well Contractors Certification Commission, with the Secretary's assistance, to establish minimum requirements of education, experience, and knowledge for each type of certification for well contractors for specified activities. The developed requirements apply only to the initial certification of an applicant and are not required as part of continuing education or as a condition of certification renewal.

Standardize Local Well Programs

Amends GS 87-97 to require local well programs to use the standard forms created by the Department for all required submittals and prohibits creating their own form unless the local program petitions the EMC for rule making and the EMC finds that circumstances unique to the area served by the program constitute a threat to public health that will be mitigated by the use of a local form. Requires that the registry of private drinking water wells maintained by local health departments be searchable by addresses served by the well.

Prohibits DENR and any local well program from requiring that well contractor identification plates include the well construction permit numbers. Allows local well programs to install a plate with the permit number or other relevant information at the program's expense. Requires the EMC to adopt a rule consistent with these provisions.

Prohibits the local well program from requiring the contractor to be on-site during the predrill inspection if the contractor is available by phone when the well location marked on the map submitted with the application is also marked with a stake on the property.

Senator Jean Preston Marine Shellfish Sanctuary

Requires the Division of Marine Fisheries (DMF) of the Department of Environment and Natural Resources (DENR) to designate a contiguous area of appropriate acreage in the Pamlico Sound as a recommendation to the Environmental Review Commission (ERC) for establishing the Senator Jean Preston Marine Shellfish Sanctuary. Also requires DMF to create a plan for managing the sanctuary that includes components concerning specified issues related to the location and duration of the sanctuary, administration of the sanctuary, funding, commercial fisherman relief including free or discounted leases to fishermen meeting specified conditions, and recommendations for statutory or regulatory

changes needed to expedite the expansion of shellfish restoration and harvesting. Requires DENR to report to the ERC on implementation no later than December 1, 2014, and quarterly thereafter until the final plan is submitted.

Clarify Gravel under Stormwater Laws

Amends GS 143-214.7(b2) to remove gravel from those items excluded from the term built-upon area. Also provides that the term does not include a slatted deck (was, a wooden slatted deck). Applies to projects for which permit applications are received on or after the date that the act becomes law. Requires the Environmental Management Commission (EMC) to amend its rules to be consistent with this definition of *built-upon area*.

Provides that the EMC and the Department of Environment and Natural Resources (DENR), unless authorized by the General Assembly, do not have the authority to define *gravel* for purposes of implementing stormwater programs. Any rule adopted by the EMC or DENR defining gravel for purposes of implementing stormwater programs is not and will not become effective.

US Postal Service Cluster Box Units/No Stormwater Permit Modification Required

Provides that the addition of a cluster box unit to a single-family or duplex development permitted by a local government does not require a modification to any stormwater permit for that development. Only applies when the individual curbside mailboxes are replaced with cluster box units whereupon the associated built-upon area supporting the cluster box units are considered incidental and are not required in the calculation of built-upon area for the development for stormwater permitting purposes. Effective when the act becomes law and expires December 31, 2015, or when regulations on cluster box design and placement by the US Postal Service become effective and those regulations are adopted by local governments, whichever is earlier.

Modifications of Approved Wastewater Systems

Requires the Commission for Public Health to adopt a rule amending 15A NCAC 18A .1969(j) so that the rule is implemented so as to not require a survey or audit of installed modified systems in order to confirm the satisfactory preform of those systems. The provisions expire on the date that the adopted rules become effective. Exempts the rules from Part 3 of Article 2A of GS Chapter 150B and provides that the rules become effective as though 10 or more written objections had been received. Requires that the current rule be implemented as provided in these provisions until the effective date of the revised rule.

Capstone Permitting

Amends GS 150B-23 to add that where multiple licenses are required from an agency for a single activity, the agency's Secretary or chief administrative officer may issue a written determination that the decision reviewable under Article 3 of GS Chapter 150B occurs on the date the last license for the activity is issued, denied, or otherwise disposed of. Any licenses issued for the activity before the date of the last license identified in the written determination are not reviewable until the last license for the activity is disposed of.

Changes to the Residential Property Disclosure Act

Amends the Residential Property Disclosure Act, GS Chapter 47E, as follows. Enacts new GS 47E-4.1, requiring the owner of the property in transfers in GS 47E-1 (specified transfers of residential real property consisting of not less than one nor more than four dwelling units) and GS 47E-2(b) (transfers involving the first sale of a dwelling never inhabited; lease with option to purchase contracts where the lessee occupies or intends to occupy the dwelling; and transfers where both parties agree not to complete a residential property disclosure statement or an owners' association and mandatory covenants disclosure statement) to furnish the purchaser with a mineral and oil and gas rights mandatory disclosure statement. Sets out the required format and language of the disclosure concerning the severance of mineral and/or oil and gas rights from the title to real property. Requires the NC Real Estate Commission to develop and require the use of a mineral and oil rights mandatory disclosure statement to comply with the statute's requirements. Provides that the rights of the parties to a real estate contract as to the severance of minerals or the oil and gas rights by the previous property owner and of which the owner had no actual knowledge are not affected by

this Article unless the mandatory disclosure statement says that the owner makes no representations as to the severance by the previous owner. Provides that if the statement says that an owner makes no representations as to the severance by the previous owner, then the owner has no duty to disclose the severance by a previous owner, whether or not the owner should have known of any severance. Makes conforming changes to GS 47E-2, GS 47E-4, GS 47E-5, GS 47E-6, GS 47E-7, and GS 47E-8. Effective January 1, 2015, and applies to contracts executed on or after that date.

Reports on Minimum Design Criteria

Amends Section 1 of SL 2013-82 to require DENR to submit interim reports to the ERC on its progress in developing the Minimum Design Criteria for permits issued by the stormwater runoff permitting programs. The reports must be submitted by September 1, 2014, and December 1, 2014. Extends the deadline for the final report from September 1, 2014, to February 1, 2015.

Statewide Venus Flytrap Penalties

Enacts new GS 14-129.3 making it a Class H felony to dig up, pull up, take, or carry away or aid in such, any Venus flytrap plant or seed that is growing on another's land, or in the public domain, with the intent to steal. Exempts anyone with a permit to perform the act, signed by the land owner, and requires the permit to be in the person's possession at the time of the act.

Amends GS 14-129 to increase the minimum fine from \$10 to \$75 and the maximum fine from \$50 to \$175 for digging up, pulling up, or taking any of the plants listed in the statute from another's land or any public domain. Adds that each plant taken constitutes a separate offense. Requires the clerk of court for the jurisdiction in which a conviction occurs involving any species listed in the statute that also appears on the NC Protected Plants list to report the conviction to the Plant Conservation Board so that the Board may consider a civil penalty. Makes the statute statewide, removing the exemption for 22 listed counties.

Applies to offenses committed on or after December 1, 2014.

Expand Daily Flow Design Exemption for Low-Flow Fixtures

Amends Section 34(b) of SL 2013-413 to add that notwithstanding the Daily Flow for Design rates listed for dwelling units in 15A NCAC 18A .1949(a), a wastewater system must be exempt from the Daily Flow for Design and other design flow standards provided flow rates less than those in 15A NCAC 18A .1949 (was, in Table No. 1 of the rule) can be achieved through engineering design that uses low-flow fixtures and low-flow technologies and the design is prepared, sealed, and signed by a professional licensed engineer. Allows establishing by rule lower limits on reduced flow rates but adds the requirement that the Commission for Public Health rely on scientific evidence specific to soil types found in the state that the lower limits are necessary for those soil types. Adds that rules adopted under this section must become effective as provided in GS 150B-21.3(b1) as though 10 or more written objections had been received.

Amend Isolated Wetlands Regulation

Requires the Environmental Management Commission to adopt a rule to amend 15A NCAC 02H .1305 (Review of Applications) so that when implementing the rule (1) the amount of impacts of isolated wetlands under 15A NCAC 02H .1305(d)(2) is less than or equal to 1 acre of isolated wetlands east of I-95 for the entire project and less than or equal to 1/3 acre of isolated wetlands west of I-95 for the entire project; (2) the mitigation ratio for impacts greater than 1 acre for the entire project under 15A NCAC 02H .1305(g)(6) is 1:1 and may be on the same parcel; and (3) for purposes of Section 5.9(b) of the act, isolated wetlands means a Basin Wetland or Bog, as described in the specified manual, that is greater than 1 acre in size. Identical provisions are in effect when the act becomes law and expire on the date that the required rule is adopted.

Requires the Department of Environment and Natural Resources to study three specified issues, including the surface area thresholds for the regulation of mountain bog isolated wetlands and report to the Environmental Review Commission on or before November 1, 2014.

Energy Audit Requirements

Amends GS 143-64.12 to require state agencies and state institutions of higher learning to update their utility management plan biennially instead of annually. Requires the State Energy Office to report by December 1 of every odd-numbered year (was, every year) to the Joint Legislative Energy Policy Commission (was, Joint Legislative Commission on Governmental Operations) on the program to manage energy, water, and other utility use for state agencies and state institutions of higher learning.

Study Use of Contaminated Property

Requires DENR to study ways to improve the timeliness of actions necessary to address contaminated properties so that the property is safe for productive use, threats to the environment and public health are minimized to acceptable levels, and the risk of taxpayer fund remediation is reduced. Specifies five items to be considered. Requires a report to the Environmental Review Commission (ERC) by November 1, 2014.

Hardison Amendment Clarification

Amends GS 150B-19.3, concerning limitations of environmental rules, providing that rules required by a subdivision of GS 150B-19.3(a) will be treated as if they had received 10 written objections under GS 150B-21.3(b2), thus requiring a delayed effective date pursuant to GS 150B-21.3(b1), the earlier of the 31st legislative day or the day of adjournment of the next regular session of the General Assembly that begins at least 25 days after the date the rule was approved. Effective September 1, 2014.

Forestry Act Correction

Amends GS 106-1004 (as enacted by SL 2014-100) to delete the reference to Article 83 of GS Chapter 106.

Recourse When Agency Fails to Act

Amends GS 150B-23 to add that if any agency fails to take any required action within the legally required time period, a person whose rights are substantially prejudiced by the failure to act may commence a contested case seeking an order that the agency act. If the administrative law judge finds that the agency has failed to act as legally required, the judge may order the agency to take the required action within a specified time period. Amends GS 150B-44 to delete the provision making unreasonable delay on the part of any agency or administrative law judge in taking any required action justification for any person adversely affected by the delay to seek a court action compelling action. Also deletes the provisions making the Board of Trustees of the NC State Health Plan for Teachers and State Employees a board for purposes of the statute.

Deletes provisions of the bill concerning the following topics:

Committee on Dropout Prevention, deleting a set termination date of July 1, 2014, for the Committee.

Prohibit Certain Headlights

Study Service of Process in Summary Ejectment

Study Membership under Insurance Guaranty Association Act

Specialty Markets

Jump-Start Our Business Start-Ups Act

Study Insurance Rates

Remove Sunset for Certain Columbarium

Study Statutory Changes Related to Corporations Law

Notify Property Owners of Right-of-Way Transfers

DOT Condemnation/Corridor Map Changes

Notice to Chronic Violators

Allow for Differential Treatment of Fraternities and Sororities in Zoning

Repeal Supermajority Effect of Protest Petitions

Repeal Obsolete Department of Insurance Statutes

Study Post-Arrest Photographic Images Not Public

Compliance With Building Code Inspection Requirements

Study Ethics Requirements for Certain City Officials

Building Code Study

BRAC Related Amendments

Extend Deadline for Adoption of Division of Employment Security Rules

Building Code Alternate Approval Methods Study

Clarify Official Misconduct for Code Officials

Clarify When a County or Municipality May Enact Zoning Ordinances Related to Design and Aesthetic Controls

Permanent License Plates for Charter Schools

Intro. by Wade, B. Jackson, Brock.

GS 14, GS 15A, GS 18B, GS 47E, GS 55B, GS 58, GS 62, GS 66, GS 74F, GS 87, GS 89C, GS 90, GS 93B, GS 106, GS 113, GS 113A, GS 114, GS 115C, GS 116C, GS 130, GS 130A, GS 143, GS 143B, GS 150B, GS 153A, GS 160A

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Alcoholic Beverage Control, Animals, Business and Commerce, Occupational Licensing, Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Development, Land Use and Housing, Building and Construction, Education, Elementary and Secondary Education, Higher Education, Employment and Retirement, Environment, Aquaculture and Fisheries, Energy, Government, APA/Rule Making, State Agencies, Local Government, Health and Human Services, Health, Health Care Facilities and Providers, Public Health, Public Enterprises and Utilities

S 884 (2013-2014) [2014 APPOINTMENTS BILL \(NEW\)](#). Filed Jul 16 2014, *A BILL TO BE ENTITLED AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO APPOINT A MEMBER OF THE BOARD OF DIRECTORS FOR THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC., UPON THE RECOMMENDATION OF THE MAJORITY AND MINORITY LEADERS OF THE HOUSE OF REPRESENTATIVES.*

AN ACT TO APPOINT PERSONS TO VARIOUS PUBLIC OFFICES UPON THE RECOMMENDATION OF THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND TO APPOINT A MEMBER OF THE BOARD OF DIRECTORS FOR THE NORTH CAROLINA PARTNERSHIP FOR CHILDREN, INC., UPON THE RECOMMENDATION OF THE MAJORITY AND MINORITY LEADERS OF THE HOUSE OF REPRESENTATIVES. Enacted August 15, 2014. Effective August 15, 2014, except as otherwise indicated.

Intro. by Apodaca.

UNCODIFIED

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ACTIONS ON BILLS

PUBLIC BILLS

H 189: [VARIOUS TAX LAW CHANGES \(NEW\).](#)

Senate: Conf Com Appointed

House: Conf Com Dismissed

House: Conferees Reappointed

House: Conf Com Reported

House: Ruled Material

House: Ref To Com On Rules, Calendar, and Operations of the House

Senate: Conf Com Reported

Senate: Conf Held As Material

Senate: Placed On Cal For 08/18/2014

H 369: [CRIMINAL LAW CHANGES.](#)

House: Added to Calendar

House: Conf Com Dismissed

House: Concurred In S/Com Sub

House: Ordered Enrolled

Ratified

Pres. To Gov. 8/15/2014

H 1086: [NC AND SC RAIL COMPACT.](#)

House: Withdrawn From Com

House: Added to Calendar

House: Concurred In S/Com Sub

House: Ordered Enrolled

Ratified

Pres. To Gov. 8/15/2014

S 734: [REGULATORY REFORM ACT OF 2014 \(NEW\).](#)

Senate: Conf Com Reported

Senate: Placed on Today's Calendar

Senate: Conf Report Adopted

House: Conf Report Adopted

Senate: Ordered Enrolled

Ratified

Pres. To Gov. 08/15/2014

S 884: 2014 APPOINTMENTS BILL (NEW).

Ratified

No local actions on bills

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