



## The Daily Bulletin: 2021-10-05

### PUBLIC/HOUSE BILLS

H 220 (2021) [CHOICE OF ENERGY/MODIFY PUB. REC./TC. \(NEW\)](#) Filed Mar 3 2021, *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, AND TO MAKE A TECHNICAL CORRECTION.*

Senate committee substitute makes the following changes to the 4th edition.

Amends proposed GS 160A-205.4, applicable to cities, and proposed GS 153A-145.8, applicable to counties, to make technical changes to the statutes referenced that govern the establishment of territorial rights which electricity distribution under either statute must comply.

Adds the following new content.

Revises sensitive security information excluded as public records under GS 132-1.7. Adds to the exclusion for information containing specific details of public security plans and arrangements or the detailed plans and drawings of public buildings and infrastructure facilities to explicitly include detailed plans and drawings contained in information storage systems or geographic information system databases. Adds a new exclusion, providing that specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure, whether physical or virtual, for any of the following are not public record: (1) the production, generation, transmission, or distribution of energy; (2) the treatment, transmission, or distribution of water; and (3) the outfall, collection, or treatment of wastewater. Makes technical and clarifying changes.

Subject to H 218 becoming law, corrects a statutory cross-reference in GS 143-214.7(b3), as amended by that act.

Makes conforming changes to the act's titles.

**Intro. by Arp, Miller, Saine, Szoka.**

[GS 10A, GS 132, GS 143, GS 153A, GS 160A](#)

[View summary](#)

**Government, Public Records and Open Meetings, State Agencies, Department of Environmental Quality (formerly DENR), Local Government, Public Enterprises and Utilities**

H 951 (2021) [ENERGY SOLUTIONS FOR NORTH CAROLINA. \(NEW\)](#) Filed May 11 2021, *AN ACT TO AUTHORIZE THE UTILITIES COMMISSION TO (I) TAKE ALL REASONABLE STEPS TO ACHIEVE A SEVENTY PERCENT REDUCTION IN EMISSIONS OF CARBON DIOXIDE FROM ELECTRIC PUBLIC UTILITIES FROM 2005 LEVELS BY THE YEAR 2030 AND CARBON NEUTRALITY BY THE YEAR 2050, (II) AUTHORIZE PERFORMANCE-BASED REGULATION OF ELECTRIC PUBLIC UTILITIES, (III) PROCEED WITH RULEMAKING ON SECURITIZATION OF CERTAIN COSTS AND OTHER MATTERS, AND (IV) ALLOW POTENTIAL MODIFICATION OF CERTAIN EXISTING POWER PURCHASE AGREEMENTS WITH ELIGIBLE SMALL POWER PRODUCERS.*

Senate committee substitute to the 3rd edition makes the following changes.

Deletes the content of the previous edition with the exception of Part II. of the act, which enacts GS 62-133.16, allowing the North Carolina Utilities Commission to approve performance-based regulation of electric public utilities upon application. Modifications to Part II. of the act are discussed below.

Includes the following new content.

Part I.

Directs the North Carolina Utilities Commission (Commission) to take reasonable steps to achieve a 70% reduction in emissions of carbon dioxide emitted in the state from electric generating facilities owned or operated by electric public utilities from 2015 levels by 2030, and to achieve carbon neutrality by 2050. Defines *electric public utility* and *carbon neutrality*. Directs the Commission to develop a Carbon Plan by December 31, 2022, with the electric public utilities and stakeholders to achieve the reduction goals and to biennially review the plan for necessary modifications.

Directs the Commission to comply with current law and practice with respect to the least cost planning for generation pursuant to GS 62-2(a)(3a) in achieving the reduction goals and determining generation and resource mix for the future. Requires any new generation facilities or other resources selected by the Commission in order to achieve the reduction goals to be owned and recovered on a cost-of-service basis by the applicable electric public utility, except as follows. Makes existing law applicable with respect to energy efficiency measures and demand-side management. Establishes the following additional requirements for new solar generation selected by the Commission: (1) 45% total megawatts alternating current (MW AC) of any solar energy facilities established must be supplied through the execution of power purchase agreements with third parties pursuant to which the electric public utility purchases solar energy, capacity, and environmental and renewable attributes from solar energy facilities owned and operated by third parties that are 80 MW AC or less that commit to allow the procuring electric public utility rights to dispatch, operate, and control the solicited solar energy facilities in the same manner as the utility's own generating resources and (2) 55% of the total megawatts alternating current (MW AC) of any solar energy facilities established must be supplied from solar energy facilities that are utility-built or purchased by the utility from third parties, and owned and operated and recovered on a cost-of-service basis by the soliciting electric public utility. Makes the ownership requirements applicable to solar energy facilities paired with energy storage and procured in connection with any voluntary customer program.

Requires the Commission to ensure any generation and resource changes maintain or improve upon adequacy and reliability of the existing grid. Directs that the Commission maintain discretion to determine optimal timing and generation and resource-mix to achieve the least cost path to compliance with the reduction goals, including discretion in the reduction goal dates specified in order to allow for implementation of solutions that would have a more significant and material impact on carbon reduction. Prohibits exceeding the dates specified by more than two years, except in the event the Commission authorizes construction of a nuclear facility or wind energy facility that would require additional time for completion, or in the event it is necessary to maintain the adequacy and reliability of the existing grid. Requires the Commission to receive and consider stakeholder input in making such determinations.

Amends GS 62-110.8, which requires electric public utilities to file for Commission approval a program for the competitive procurement of energy and capacity from renewable energy facilities in the aggregate amount of 2,660 megawatts (MW), reasonably allocated over a term of 45 months. Eliminates the provision which directs that the offering of a new renewable energy resources competitive procurement and the amount to be procured at the termination of the initial competitive procurement period of 45 months be determined by the Commission based on a showing of need evidenced by the electric public utility's most recent biennial integrated resource plan or annual update approved by the Commission pursuant to GS 62-110.1(c). Additionally, eliminates the Commission's duty to adopt rules establishing a procedure for the Commission to modify or delay implementation of the statute's provisions in whole or in part if the Commission determines that it is in the public interest to do so.

Authorizes the Commission to direct the procurement of solar energy facilities in 2022 by the electric public utilities if, after stakeholder participation and review of preliminary analysis developed in preparation of the initial Carbon Plan, the Commission finds that such facilities will be needed to achieve the reduction goals in accordance with the act.

Directs the Department of Environmental Quality (DEQ) to, by March 1, 2022, develop a plan to ensure adequate financial resources for the decommissioning of utility-scale solar projects, as defined, to be submitted to the NCGA for legislative action. Defines *utility-scale solar project* to include solar arrays, accessory buildings, transmission facilities, and any other infrastructure necessary for the operation of the project.

## Part II.

Maintains the content of Part II. of the previous edition with the following revisions. Modifies proposed GS 62-133.16, *Performance-based regulation authorized*. Previously, the Commission was explicitly prohibited from modifying an electric public utility's performance-based regulation (PBR) application. Now the Commission is authorized to issue an order modifying the PBR application as an alternative to issuing an order approving or rejecting the application following the required application review procedures established under the proposed statute. Makes technical changes.

## Part III.

Authorizes and directs the Commission to establish rules for securitization of costs associated with early retirement of subcritical coal-fired electric generating facilities within 180 days of the date the act becomes law. Requires stakeholder input and participation. Directs the Commission to develop rules to determine costs to be securitized at 50% of the remaining net book value of all subcritical coal-fired electric generating facilities to be retired to achieve the act's reduction goals, with any remaining non-securitized costs to be recovered through rates. Makes rules, procedures, obligations, and protections adopted for securitization of costs associated with retirement of subcritical coal-fired generating facilities to be substantively identical to the provisions of Section 1 of SL 2019-244 (enacting new GS 62-172, *Financing for certain storm recovery costs*), except with respect to the purposes for which securitization may be used under that section. Additionally directs the Commission to: (1) evaluate and modify as necessary existing standby service charges; (2) revise net metering rates; (3) establish an on utility bill repayment program related to energy efficiency investments; and (4) establish a rider for a voluntary program that will allow industrial, commercial, and residential customers who elect to purchase from the electric public utility renewable energy or renewable energy credits, including in any program in which the identified resources are owned by the utility, to offset their energy consumption, with specified requirements.

## Part IV.

Directs the Commission to initiate a docket within 120 days of the date the act becomes law to establish the rates to be paid by the electric public utilities in connection with a one-time option to modify certain existing power purchase agreements (PPA) with eligible small power producers. Requires: (1) providing those producers a one-time option to elect, within 180 days of an authorizing Commission order, to amend their existing PPA, extending into a new longer term of the existing PPA for a term equal to the remaining term of the existing PPA plus an additional 10 years and (2) establishing capacity and energy rates to be paid by the electric public utilities under an amended PPA that meets specified criteria, including requiring that the capacity and energy rates be just and reasonable to all classes of customers of the electric public utilities, be in the public interest, and result in the immediate reduction in the cost of electricity for all classes of customers and a reduction in the estimated long-term cost of electricity for all classes of customers. Defines *eligible small power producers* to mean small power producers, as defined in GS 62-3(27a), generating solar electricity with a total capacity equal to or less than five megawatts (AC) that established a legally enforceable obligation in accordance with the Commission's then applicable requirements on or before November 15, 2016, and have entered into a long-term contract exceeding two years to sell their full output to the interconnected electric public utility under Section 210 of the Public Utility Regulatory Policies Act of 1978.

Declares it appropriate, in the public interest and in an effort to achieve regulatory economy, to encourage eligible small power producers and electric public utilities to negotiate amendments to the PPAs of eligible small power producers, as specified.

## Part V.

Includes a severability clause.

Changes the act's short and long titles.

**Intro. by Arp, Szoka, D. Hall, Bell.**

GS 62

[View summary](#)

**Environment, Energy, Government, Public Enterprises and Utilities**

## ACTIONS ON BILLS

## PUBLIC BILLS

**H 91: ACCOUNTABILITY AND FAIR PLAY IN ATHLETICS. (NEW)**

*Senate: Conferees Changed*

**H 165: DOT LEGISLATIVE CHANGES.-AB**

*Senate: Reptd Fav*

**H 220: CHOICE OF ENERGY/MODIFY PUB. REC./TC. (NEW)**

*Senate: Reptd Fav Com Substitute*

*Senate: Com Substitute Adopted*

*Senate: Re-ref Com On Rules and Operations of the Senate*

**H 624: NORTH CAROLINA REGULATORY SANDBOX ACT.**

*Senate: Reptd Fav*

**H 761: POLICE VEHICLE AND EQUIPMENT PROTECTION ACT.**

*Senate: Reptd Fav*

**H 854: LAND USE CLARIFICATIONS. (NEW)**

*Senate: Reptd Fav*

**H 951: ENERGY SOLUTIONS FOR NORTH CAROLINA. (NEW)**

*Senate: Reptd Fav Com Substitute*

*Senate: Com Substitute Adopted*

*Senate: Re-ref Com On Finance*

*Senate: Reptd Fav*

*Senate: Re-ref Com On Rules and Operations of the Senate*

**S 191: THE NO PATIENT LEFT ALONE ACT.**

*Senate: Withdrawn From Com*

*Senate: Placed On Cal For 10/06/2021*

**S 424: PRIVATE PROTECTIVE SRVS. LICENSING MODS.**

*Senate: Reptd Fav*

**No local actions on bills**

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