



## The Daily Bulletin: 2022-06-02

### PUBLIC/HOUSE BILLS

H 144 (2021) **MEDICAID CHILDREN AND FAMILIES SPECIALTY PLAN. (NEW)** Filed Feb 24 2021, *AN ACT AUTHORIZING THE CHILDREN AND FAMILIES SPECIALTY PLAN AS AN ADDITIONAL MEDICAID MANAGED CARE PLAN AND MAKING OTHER CHANGES TO MEDICAID MANAGED CARE STATUTES.*

Senate committee substitute replaces the content of the 3rd edition with the following.

#### Section 1

Directs the Department of Health and Human Services (DHHS) to issue a request for proposals to procure a single statewide children and families specialty plan (CAF specialty plan) with services to begin no later than December 1, 2023. Limits proposal submissions to entities operating a standard benefit plan or a behavioral health and intellectual/developmental disabilities tailored plan (BH IDD tailored plan) contract with DHHS at the time the request for proposals is issued, and limits those entities one response each. Specifies that eligible entities under common control or ownership with one another are limited to collectively submitting one response. Directs DHHS to define the services available and the Medicaid and NC Health Choice beneficiaries who are eligible to enroll in the children and families specialty plan, except as otherwise specified in the act.

#### Section 2

Amends and adds to the defined terms set forth in GS 108D-1, applicable to the Chapter, which governs Medicaid and NC Health Choice Managed Care Programs. Adds and defines *children and families specialty plan* (CAF specialty plan) as statewide capitated prepaid health plan contract under the Medicaid transformation demonstration waiver that meets all of the requirements of Article 4 of the Chapter, as amended by the act, including the requirements pertaining to the CAF specialty plan, but excluding the requirements only pertaining to BH IDD tailored plans. Makes conforming changes. Amends the definitions provided for *prepaid health plans* (PHPs) and *standard benefit plans* to account for PHP contracts to operate CAF specialty plans in addition to BH IDD tailored plans. Eliminates the term *closed network*.

#### Sections 3 and 9

Revises and adds to the population categories exempt from capitated PHP contracts coverage for Medicaid and NC Health Choice program aid under GS 108D-40. Regarding the exempt category described in subdivision (a)(12) for recipients with a serious mental illness, a serious emotional disturbance, a severe substance use disorder, an intellectual/developmental disability, or who have survived a traumatic brain injury and who are receiving traumatic brain injury services, who are on the waiting list for the Traumatic Brain Injury waiver, or whose traumatic brain injury otherwise is a knowable fact, until BH IDD tailored plans become operational, at which time this population will be enrolled with a BH IDD tailored plan, revises the option for the described population from voluntarily enrolling with a PHP subject to the specified conditions, to provide for the option to voluntarily enroll with PHP operating a standard benefit plan, with access limited to the plan's covered behavioral health services, except as provided for recipients being served through the Community Alternatives Program for Disabled Adults (CAP/DA) under subdivision (a)(11). Eliminates the exclusion of coverage under subdivision (a)(13)c. for recipients who are enrolled in the foster care system, receiving Title IV-E adoption assistance, under the age of 26 and formerly were in the foster care system, or under the age of 26 and formerly received adoption assistance, for a time determined by DHHS of up to 5 years after the capitated PHP contracts begin. Enacts a new exclusion for recipient who, until the CAF specialty plan becomes operational, are: (1) children enrolled in foster care in this State; (2) receiving adoption assistance, or (3) former foster care youth until they reach the age of 26. Adds that, starting on the date that capitated contracts for BH IDD tailored plans begin, and until the CAF specialty plan becomes operational, recipients described in this new subdivision may voluntarily enroll in a PHP operating a standard benefit plan or, if eligible under GS 108D-40(a)(12), as amended, enroll with a BH IDD tailored plan. Provides that when the CAF specialty plan becomes operational, recipients described in new subdivision (14) will be enrolled in accordance with GS 108D-62, as enacted. Makes conforming changes.

Amends GS 108D-5.3 to allow enrollees within the described groups to request disenrollment from a PHP (was, allowed to disenroll) at any time. Revises the groups to include beneficiaries who are described in new GS 108D-40(a)(14), and amended GS 108D-40(a)(12). Eliminates inclusion of beneficiaries who are in the form foster care Medicaid eligibility category and those who receive Title IV-E adoption assistance.

#### Section 4

Amends GS 108D-21, regarding the closed network of providers maintained by LME/MCOs to furnish mental health, intellectual or developmental disabilities, and substance abuse services to its enrollees. Defines the closed network as the network of providers that have contracted with the LME/MCO operating the combined 1915(b) and (c) waivers.

#### Sections 5 through 7

Amends GS 108D-23, regarding the closed network of providers maintained by BH IDD tailored plans. Defines closed network as the network of providers that have contracted with the entity operating a BH IDD tailored plan to furnish behavioral health, intellectual and developmental disability, and traumatic brain injury services enrollees to enrollees.

Enacts GS 108D-24, requiring the entity operating the CAF specialty plan to develop and maintain a closed network of providers only for the provision of intensive in-home services, multi-systemic therapy, residential treatment services, and services provided in private residential treatment facilities. Adds that the closed network is the network of providers that have contracted with the entity operating the CAF specialty plan to furnish the services specified to enrollees.

Amends GS 108D-22, which requires each PHP to develop and maintain a provider network that meets access to care requirements for its enrollees, to except the CAF specialty plan networks set out in new GS 108D-24 in addition to the existing exception for the BH IDD tailored plan networks set out in GS 108D-23.

#### Section 8

Amends GS 108D-35 to require all capitated PHP contracts to cover substance abuse comprehensive outpatient treatment program services, substance abuse intensive outpatient program services, and social setting detoxification services. Adds to Medicaid services capitated contracts are prohibited from covering to include those covered by LME/MCOs under an approved 1915(i) waiver. Makes organizational changes and authorizes the Revisor to make necessary technical changes to statutory references to reflect organizational changes made by the act to Article 4 of the Chapter.

#### Section 10

Corrects a statutory cross-reference in GS 108D-45, to refer to the nature of contracts for standard benefit plans required under GS 108D-65(6) (was, GS 108D-65(3)). Eliminates the exemption for the statute's limitation on the number of contracts for BH IDD tailored plans described in GS 108D-60.

#### Section 11

Amends GS 108D-60, governing BH IDD tailored plans, to revise subdivision (a)(10), which requires automatic enrollment with an entity operating a BH IDD tailored plan for recipients described in GS 108D-40(a)(12), to now exclude recipients also described in new GS 108D-40(a)(14) who are to be enrolled under GS 108D-62, as enacted. Enacts a new subdivision, (a)(11), to exclude recipients described in GS 108D-40(a)(12) from having an option to voluntarily enroll with a PHP operating a standard benefit plan or the CAF specialty plan while receiving services offered to: recipients enrolled in the Innovations waiver; recipients enrolled in the Traumatic Brain Injury waiver; recipients residing in or receiving respite services at an intermediate care facility for individuals with intellectual/developmental disabilities; recipients enrolled in and being served under Transitions to Community Living; and recipients receiving State-funded residential services, including group living, family living, supported living, and residential supports. Makes a conforming change to subdivision (a)(10).

#### Section 12

Enacts GS 108D-62, defining CAF specialty plan and setting forth nine defined terms for the statute. Establishes the following requirements of a CAF specialty plan: requiring plans to result from RFPs issued by DHHS submitted by eligible PHPs under contract with DHHS; requiring operating entities to authorize, pay for, and manage all Medicaid and NC Health Choice services covered under the plan; requiring operating entities to operate care coordination functions and provide whole-person, integrated care across healthcare and treatment settings and foster care placements for enrollees; requiring operating entities to be the single point of care management accountability; and requiring DHHS to establish requirements for CAF specialty plan

operations that address four considerations, including continuity of care and support across health care settings, changes in placement, and when the child transitions into the former foster youth Medicaid eligibility category. Requires the CAF specialty plans to cover the behavioral health, intellectual and developmental disability, and traumatic brain injury services excluded from standard benefit plan coverage under GS 108D-35(1), excluding five listed services, including innovation waiver services and Traumatic Brain Injury waiver services.

Describes six categories of Medicaid and NC Health Choice recipients for eligible for CAF specialty plan enrollment, including recipients described in new GS 108D-40(a)(14) and their children, for as long as the parent remains enrolled unless the elects otherwise; adults identified on an open child protective services in-home family services agreement case and any minor children living in the same home; adults identified in an open Eastern Band of Cherokee Indians Department of Public Health and Human Services Family Safety program case and any children living in the same home; the minor siblings of a child in foster care who lived in the same home as that child at the time of the child's removal and with whom household reunification efforts are ongoing; recipients who have a child temporarily in foster care who meet three specified criteria; and any other recipients who have had involvement with the child welfare system and whom DHHS has determined would benefit from enrollment in the CAF specialty plan. Establishes three categories of recipients excluded from the CAF specialty plan, including recipients who are excluded from PHP coverage under GS 108D-40(a).

Establishes CAF specialty plan enrollment is voluntary except as follows. Provides for automatic enrollment in the CAF specialty plan of Recipients described in GS 108D-40(a)(14) and their children unless they are also recipients who have a child temporarily in foster care and meet the three described criteria, whereby enrollment is voluntary. Requires recipients eligible to enroll in the CAF specialty plan have the option to enroll with a PHP operating a standard benefit plan or, if eligible under GS 108D-40(a)(12), a BH IDD tailored plan, and specifies the effects of such enrollment. Allows for recipients enrolled in foster care, as described in GS 108D-40(a)(14)(i), who exit the custody of the county department of social services to elect to remain enrolled in the CAF specialty plan for 12 months after the date the recipient exits custody. Allows, in the case of recipients who achieve reunification, a parent, a caretaker relative, a custodian, a guardian, or a minor sibling with whom the recipient reunifies to elect to remain enrolled in the CAF specialty plan as long as the recipient remains enrolled.

#### Section 13

Amends GS 122C-3, which sets forth defined terms for the Mental Health, Developmental Disabilities, and Substance Abuse Act, adding *CAF specialty plan* to the Chapter's defined terms. Amends LME/MCO to provide for capitated PHP contracts under Article 4, GS Chapter 108D, as amended (rather than only specifying BH IDD tailored programs under the Article).

#### Section 14

Amends GS 122C-115 to include recipients described in new GS 108D-40(a)(14) in the directives relating to LME/MCO responsibilities to manage Medicaid services before PHP plans under Article 4, GS Chapter 108A are operational.

#### Section 15

Enacts GS 122C-115.5, authorizing an area authority to operate a CAF specialty plan under contract with DHHS so long as the area authority has a statewide catchment. Prohibits counties from withdrawing from or declining to participate in the statewide catchment area of the CAF specialty plan.

Changes the act's titles.

**Intro. by Lambeth.**

GS 108D, GS 122C

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**Government, State Agencies, Department of Health and Human Services, Local Government, Health and Human Services, Health, Health Care Facilities and Providers, Health Insurance, Mental Health, Social Services, Child Welfare**

H 149 (2021) [EXPANDING ACCESS TO HEALTHCARE. \(NEW\)](#) Filed Feb 24 2021, *AN ACT EXPANDING ACCESS TO HEALTHCARE IN NORTH CAROLINA.*

Senate Amendment #3 makes the following changes to Amendment #1, which amended the 3rd edition.

Retains the following changes that were made by Amendment#1. Revises the lead-in language of Section 2, which directs DHHS to develop work requirements for certain individuals eligible for Medicaid under new GS 108A-54.3A(24) as a contingency to NC Health Works participation, aligned with the Able-Bodied Adults Without Independents (ABAWDs) policy under the Supplemental Nutrition Assistance Program (SNAP), to frame as legislative intent the provisions requiring certain individuals eligible for Medicaid under the new subdivision of GS 108A-54.3A be subject to work requirements as a contingency of NC Health Works participation, and frame the directive to DHHS to develop such work requirements as a means to meet that legislative intent.

The following content is removed from Amendment #1 and will no longer take effect:

#### Part I.

Changes the effective date of the provisions of Section 1.1, which (1) repeal Section 3, SL 2013-5, which bars the State from expanding the State's Medicaid eligibility under the Medicaid expansion provided in the Affordable Care Act, PL 111-148, as amended, and bars State entities from attempting to expand the Medicaid eligibility standards provided in SL 2011-145, as amended, or elsewhere in State law, unless directed by the NCGA and (2) amends GS 108A-54.3 to enact new subdivision (24), requiring the Department of Health and Human Services (DHHS) to provide Medicaid coverage to individuals described in section 1902(a)(10)(A)(i)(VIII) of the Social Security Act who are in compliance with work requirements established in the State Plan and in rule. Makes the provisions effective at the earlier of July 1, 2023, or the date that the work requirements developed under Part II. of the act become effective (was, effective upon the later of six months after the date the act becomes law, or on the date the work requirements developed under Part II. of the act become law). Makes a technical change to new GS 108A-54.3(24), to require individuals to be in compliance with any work requirements established in the State Plan.

Changes the effective date of the provisions of Section 1.2, which (1) enacts GS 108A-54.3B, providing legislative intent to fully fund the nonfederal share of the cost of NC Health Works, meaning the provision of Medicaid coverage to the individuals described in new GS 108A-54.3A(24), through a combination of specified funding sources; establishes reporting requirements for DHHS; and requires expeditiously discontinuing coverage for the individuals described in new GS 108A-54.3A(24) if the nonfederal share of the cost cannot be fully funded through the described sources and (2) enacts GS 108A-54.3C to require expeditious discontinuation of Medicaid coverage if the federal medical assistance percentage for Medicaid coverage provided to the individuals described in new GS 108A-54.3A(24) falls below 90%, and establishes requirements identical to those for discontinuation due to insufficient funds from identified sources in GS 108A-54.3B. Makes provisions effective at the earlier of July 1, 2023, or the date that the work requirements developed under Part II. of the act become effective (was, effective upon the later of six months after the date the act becomes law, or on the date the work requirements developed under Part II. of the act become law).

Changes the application of Section 1.5, which establishes hospital health advancement assessments for licensed hospitals for State fiscal quarters beginning October 1, 2022, through December 31, 2022, and beginning January 1, 2023, and April 1, 2023. Makes the assessment rate described for quarters beginning January 1, 2023, and April 1, 2023, effective on the effective date of the Medicaid coverage described in Section 1.1 of the act, and sunsets the assessment rate on June 30, 2023. Adds that if the effective date of Medicaid coverage described in Section 1.1 of the act occurs after June 30, 2023, the assessment should not be imposed and no payments should be made to county departments.

#### Part II.

Regarding the directive to DHHS to submit necessary State Plan amendments and waivers to the Centers for Medicare and Medicaid Services (CMS) to implement the work requirements developed, now directs DHHS to submit waivers (no longer including State Plan amendments) to CMS, within 30 days of the date the act becomes law (was, by October 1, 2022). Now requires DHHS to request an effective date for the waiver that is no more than six months from the effective date of the act (was, request a date six months from the effective date of the act). Adds a new provision to require DHHS to continue to monitor developments on the federal level with regards to the imposition of work requirements as a contingency to eligibility for Medicaid coverage in the event the waiver is denied by CMS, and resubmit the waiver if there are new developments. Specifies that the provisions do not preclude the pursuit of any legal action by the State related to federal approval or disapproval of implementation of Section 2.

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**Business and Commerce, Occupational Licensing, Government, State Agencies, Department of Health and Human Services, State Government, Executive, Health and Human Services, Health, Health Care Facilities and Providers, Health Insurance**

H 731 (2021) [ADD'L PATH TO NC EARLY CHILDHOOD CREDENTIAL. \(NEW\)](#) Filed Apr 28 2021, *AN ACT TO CREATE ADDITIONAL WAYS FOR INDIVIDUALS TO EARN A NORTH CAROLINA EARLY CHILDHOOD CREDENTIAL.*

Senate committee substitute to the 2nd edition replaces the content of the previous edition with the following.

Requires the North Carolina Child Care Commission (Commission) to adopt a rule to amend the Credential Rule consistent with the following and to implement the Credential Rule as follows until the effective date of that revised rule. Specifies that the North Carol Early Childhood Credential means the State early childhood credential that is based on either: (1) completion of required early childhood coursework taken at any North Carolina community college; (2) the receipt by the individual seeking the credential of a Child Development Associate Credential from the Council for Professional Recognition, or (3) a passing score on a test approved by the Commission designed to demonstrate an individual's master of the concepts taught in early childhood coursework taken at any North Carolina community college.

**Intro. by White.**

STUDY

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**Business and Commerce, Occupational Licensing, Education, Government, APA/Rule Making, Health and Human Services, Social Services, Child Welfare**

H 1005 (2021) [ORGANIZED RETAIL THEFT.](#) Filed May 19 2022, *AN ACT TO INCREASE THE PENALTIES FOR ORGANIZED RETAIL THEFT, TO PROVIDE ADDITIONAL PENALTIES FOR DAMAGE TO PROPERTY OR ASSAULT OF A PERSON DURING THE COMMISSION OF ORGANIZED RETAIL THEFT, TO PROVIDE ADDITIONAL RECOVERY TO RETAIL ESTABLISHMENTS FOR LOSS DUE TO ORGANIZED RETAIL THEFT, AND TO REGULATE HIGH-VOLUME THIRD-PARTY SELLERS OPERATING ON ONLINE MARKETPLACES.*

House committee substitute to the 2nd edition makes the following changes.

Reduces the criminal classification of the offenses enacted in new GS 14-86.7, damage to property during organized retail theft, and assault during organized retail theft, making the offenses Class A1 misdemeanors rather than Class G felonies.

**Intro. by Boles, Davis, McNeill, C. Smith.**

GS 1, GS 14, GS 15, GS 66

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**Business and Commerce, Consumer Protection, Courts/Judiciary, Civil, Civil Law, Criminal Justice, Criminal Law and Procedure**

H 1068 (2021) [UNC NON-APPROPRIATED CAPITAL PROJECTS. \(NEW\)](#) Filed May 25 2022, *AN ACT TO AUTHORIZE THE ACQUISITION OR CONSTRUCTION AND THE FINANCING, WITHOUT APPROPRIATIONS FROM THE GENERAL FUND, OF CERTAIN CAPITAL IMPROVEMENT PROJECTS OF THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY OF NORTH CAROLINA.*

House committee substitute to the 1st edition makes the following changes. Expands upon the projects that that may be acquired or constructed and financed as provided for in the act to now also include the Bluford Street Residence Hall at NC Agricultural and Technical State University, the acquisition of P3 Housing Project at UNC Wilmington and at Western

Carolina University. Increases the cost of the Integrative Sciences Building at NC State University from \$80 million to \$90 million. Changes the act's short title.

**Intro. by Hardister, Pickett, Hawkins, Hunter.**

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**Government, State Agencies, UNC System**

## PUBLIC/SENATE BILLS

S 224 (2021) [SAN. DIST. AMENDMENT/PROPERTY TRANSFER. \(NEW\)](#) Filed Mar 10 2021, *AN ACT TO AUTHORIZE SANITARY DISTRICTS TO CREATE, MAINTAIN, AND OPERATE PARKS AND RECREATION PROGRAMS AND FACILITIES AND TO TRANSFER A PORTION OF THE COLUMBUS CORRECTIONAL FACILITY TO THE COLUMBUS COUNTY BOARD OF COMMISSIONERS.*

House committee substitute replaces the content of the 1st edition with the following.

Adds to the powers of a sanitary district set forth in GS 130A-55 to include the power to provide for the creation, maintenance, and operation of parks and recreation programs and facilities with all the powers provided to cities and counties under state law, excluding the power of eminent domain.

Directs the State to convey all property rights and interest in the described land located adjacent to Columbus Correctional Institution and leased to Columbus County (County) for their Agricultural Fairground, to the Columbus County Board of Commissioners for \$1, for county government purposes, subject to a reversionary interest reserved by the State. Directs the Department of Public Safety and the County to develop property boundaries to be subdivided for conveyance to the County. Provides for the conveyance "as is" and without warranty. Places all costs of conveyance on the County. Exempts the conveyance from statutes governing the disposition of State lands in Article 7, GS Chapter 146, but requires compliance with statutes governing the form of State land conveyances in Article 16, GS Chapter 146, except for the provisions of GS 146-74, which makes conveyances subject to approval of the Governor and Council of State, with consultation required for lands with an appraised value of \$25,000 or more.

Changes the act's titles.

**Intro. by B. Jackson, Sanderson, Nickel.**

Columbus, GS 130A

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**Government, State Agencies, Department of Public Safety, State Government, State Property, Health and Human Services, Health, Public Health**

S 372 (2021) [ELECTRICAL LIC./BLDG. CODE/DEV. REFORM 2022. \(NEW\)](#) Filed Mar 29 2021, *AN ACT TO MAKE VARIOUS CHANGES TO ELECTRICAL CONTRACTING LICENSES, WASTEWATER, SEDIMENTATION, AND BUILDING CODE LAWS.*

House committee substitute amends the 1st edition as follows.

### Section 1

Changes the effective date of the proposed changes to GS 87-43.3, adding restrictions and requirements to the electrical contracting licensing classifications, from October 1, 2021, to October 1, 2022. Adds a heading to the Section.

Adds the following new content.

### Section 2

Delays the effective date of 15 NCAC 18E .0101 through .1713, which govern wastewater treatment and dispersal from wastewater systems, adopted by the Public Health Commission and approved by the Rules Review Commission in 2021, until

January 1, 2024.

Provides for 15A NCAC 18A .1934 through .1971, which also govern wastewater treatment and dispersal from wastewater systems and were repealed effective October 1, 2021, to remain in effect until January 1, 2024, and exempts the rules from statutorily required periodic review and expiration.

### Section 3

Revises Section 8.26 of the 2021 Appropriations Act, SL 2021-180, which allocates funds to the UNC Board of Governors to be provided to the NC Policy Collaboratory for the Innovative Highly Treated Wastewater Pilot Program, to cap project funding from allocated funds at \$4 million (was, the lesser of 40% of the total project cost or \$4 million). Amends the required actions of the Department of Environmental Quality (DEQ) with respect to the review and qualification of wastewater systems producing highly treated wastewater for eligible participating local governments, sanitary districts, or public authorities, to more specifically direct DEQ to require the manufacturer of the wastewater system within five days of the issuance of the permit to construct for a wastewater system qualified (was, within five days of qualification) to file a surety of at least a five-year term to be executed for the permittee in an amount sufficient to cover system replacement. Makes additional clarifying changes.

### Section 4

Changes the sunset provided in Section 3.19, SL 2020-97, which grants authority to licensed soil scientists, at the direction of the owner of a proposed on-site wastewater system, to prepare signed and sealed soil and site evaluations, specifications, plans, and reports for the site layout, construction, operation, and maintenance of a wastewater system without also obtaining further certification from the North Carolina On-Site Wastewater Contractors and Inspectors Board (Board), and conduct all necessary inspections, certifications, and approvals, including the issuance of the final inspection and report certifying that the system has been installed according to the approved plans and specifications for the construction, installation, and operation of a proposed wastewater system. Sets the provisions to expire on January 1, 2023 (was, 90 days after Executive Order No. 116, which declares a state of emergency to prevent the spread of COVID-19, is rescinded). Adds that the expiration does not prevent a licensed soil scientist acting under the temporary authority from completing a wastewater system already under construction (was, completing a proposed wastewater system begun before the section expires).

### Section 5

Makes the following changes to GS 130A-335. Requires evaluations of soil conditions and site features by licensed soil scientist or a licensed geologist to be used in developing design and construction features for a new proposed wastewater system or a proposed repair project for an existing wastewater system, and approved by the applicable permitting authorities under GS 130A-226, so long as the evaluation satisfies the requirements of Article 11 (governing wastewater systems) and remains within the scope of the licensee's license, and the licensee conducting the evaluation maintains the appropriate liability insurance. Includes using the evaluations in addressing special hydrologic conditions that might be required under the applicable rules for an improvement permit or a construction authorization (was, the applicable rules for an authorization to construct or for permitting).

Establishes the following distinct provisions relating to applicants for an improvement permit versus a construction authorization. For improvement permit applications submitted with a soil evaluation by a licensed soil scientist or licensed geologist, requires the local health department to issue, deny, or request additional information of the applicant within 10 business days. Requires provision of a signed, written report that cites applicable rules for denials. Requires issuance of such an improvement permit if the local health department fails to act on a complete application within the required timeframe. Establishes the same required actions of a local health department within the same time frame for construction authorization applications submitted with required signed and sealed plans or evaluations conducted by a licensed engineer or certified Authorized On-Site Wastewater Evaluator, with an identical provision requiring the local health department to issue the construction authorization if the local health department fails to act on a complete application within the 10-business day timeframe.

Requires the local health department to conduct a pre-construction conference with the wastewater system contractor and other representatives of the site of construction as necessary at the proposed wastewater site no more than 10 business days prior to the start of the installation of the on-site wastewater system to determine that the conditions of the site have not been altered. Allows the pre-construction conference to be conducted by a licensed engineer or certified Authorized On-Site Wastewater Evaluator, with their findings required to be accepted by the local health department. Requires the applicant or the system

contractor certified under rules established by the Board to notify the local health department of completion of the wastewater system for the inspection and issuance of the operation permit under GS 130A-337 after determination of compliance with the construction authorization.

Replaces the statute's immunity provisions as follows. Discharges and releases from liability the Department of Health and Human Services (DHHS), DHHS agents, and the local health department for any liabilities arising out of or attributed to submittals or actions from a licensed soil scientist or licensed geologist, or licensed engineer or certified Authorized On-Site Wastewater Evaluator, under the relevant subsections of the statute. Establishes DHHS, DHHS agents, and the local health department are liable for their actions and evaluations, and other obligations under State law or rule, including the issuance of operations permits under GS 130A-337.

Makes changes to the following statutes to refer to "construction authorization" rather than "authorization for wastewater system construction" and distinguish construction authorization from an improvement permit: GS 130A-335; GS 130A-336; GS 130A-338; and GS 130A-339.

Amends GS 130A-336 to require site evaluations for areas not served by an approved wastewater system by the local health department, a licensed soil scientist or licensed geologist, or licensed engineer or certified Authorized On-Site Wastewater Evaluator, to comply with the conditions of the authorized on-site wastewater evaluator permit option under GS 130A-336.2, as an alternative to compliance with the engineered option permit under GS 130A-336.1. Makes conforming changes throughout to include references to the conditions of the authorized on-site wastewater evaluator permit option under GS 130A-336.2 where references to the engineered option permit under GS 130A-336.1 appear. Adds a new provision requiring the certified wastewater system contractor to schedule and conduct a pre-construction conference with the local health department at the proposed wastewater site no more than 10 business days prior to the start of the installation of the on-site wastewater system to determine that the conditions of the site have not been altered and that the proposed system can be installed as permitted.

Amends the required content of the common form, set out in GS 130A-336.1, that the owner of a proposed wastewater system or their authorized professional engineer, must submit to the local health department of the intent to construct a wastewater system using the engineered permit option, to include either the plat or site plan, as defined by statutory cross-references (currently, only require inclusion of a plat).

Amends GS 130A-336.2 to no longer require inclusion of local health department representatives in the post-construction conference of nonengineered wastewater systems approved and constructed on the statute.

Amends GS 130A-338, which requires issuance of a construction authorization under GS 130A-366, authorization under GS 130A-337(c), or a decision of completeness of the notice of intent to construct is made by the local health department under GS 130A-336.1(c), before any other permits on the location or relocation activity can be issued. Adds a decision on the completeness of the notice of intent to construct a nonengineered system made by the local health department under GS 130A-336.2(c) as an alternative approval that can be obtained prior to the issuance of other permits.

## Section 6

Enacts a new subsection to GS 87-97, to prohibit a local health department from conducting a grout inspection during the construction, repair, or abandonment of a private drinking water well if four conditions are met, including that (1) the well contractor provides written or electronic notice of intent to grout to the local health department within the stated requirements, and (2) the well contractor provides written certification, in a format and method specified by the Environmental Management Commission, to the local health department that the private drinking water well has been grouted in compliance with rules adopted pursuant to the NC Well Construction Act (Article 7). Allows the local health department to opt to be present during the grouting upon receipt of the intent to grout, and specifies that failure to do so does not affect the authority of the well contractor to self-certify the grouting under the authority enacted. Specifies that when local variances requiring grouting of a private drinking water to a certain depth, the well contractor must schedule a grout time and inspection with the local health department and only the local health department can certify that the private drinking water well was grouted in compliance with Article 7. Applies to inspections conducted on or after October 1, 2022.

## Section 7

Directs DEQ to study the requirements of the Sedimentation Pollution Control Act of 1973 and federal requirements applicable to stormwater discharges from construction activities under 40 CFR 122.26, and identify all requirements of the Act that are



more stringent than or redundant to federal requirements applicable to stormwater discharges from construction activities under 40 CFR 122.26. Details requirements regarding identification of specific federal requirements. Requires DEQ to report to the Environmental Review Commission by September 1, 2022.

#### Section 8

Amends GS 143-140.1, requiring the Building Code Council to promulgate rules, procedures, and policies for the approval of alternative designs and construction by January 1, 2023. Changes the statute's title. Provides that approved alternative designs and construction that are in effect at the time of the effective date of the act remain in effect.

#### Section 9

Amends GS 160D-1102 to require every local government to designate a person responsible for the daily oversight of the local government's inspection duties and responsibilities set forth in GS 160D-1104. Establishes reporting requirements, requiring local government to publish an annual financial report on how it used inspection fees from the prior fiscal year for the support, administration, and implementation of its building code enforcement program as required by GS 160D-402(d), with published reports required for 2023, 2024, and 2025. Applies to financial reports due on or after October 1, 2022.

#### Section 10

Amends GS 160D-1105 to allow a permit holder who has been informed by a local inspection department that an inspection required under the Residential Code for One- and Two-Family Dwellings has not been, or will not be, conducted within two business days after first requested, to obtain that required inspection from a licensed architect or licensed professional engineer after giving written or electronic notice to the local government. Requires a licensed architect or licensed professional engineer conducting an inspection under the statute to provide the local government with a signed inspection report by electronic or physical delivery, with receipt required to be promptly acknowledged by the local government through reciprocal means, and requires the local government to accept and approve such inspections. Provides required content for the inspection report and provides for the reinspection of corrections made by the local government only. Discharges and releases the local government, its inspection department, and the inspectors from any liabilities, duties, and responsibilities imposed by Article 11 with respect to or in common law from any claim arising out of or attributed to that required inspection.

Amends GS 160D-1109, which makes it a Class 1 misdemeanor for an inspection department member to willfully fail to perform their duties, improperly issue a building permit, give a certificate of compliance without making required inspections, or improperly give a certificate of compliance. Releases such employees if the local government, its inspections department, or one of its inspectors accepted a signed written document documenting compliance from a licensed architect or licensed engineer under GS 160D-1105 or GS 160D-1106, each of which provide alternative arrangements for inspections (was, under GS 160D-1104(d), which provides for inspections by local government inspectors). Applies to inspections conducted on or after October 1, 2022.

#### Section 11

Amends GS 160D-702(c) to prohibit a zoning or other development regulation from (1) setting a minimum square footage of any structures subject to regulation under the Residential Code for One- and Two-Family Dwellings, or (2) setting a maximum parking space size larger than nine feet wide by twenty feet long unless the parking space is designated for handicap, parallel, or diagonal parking (previously, prohibition was limited to zoning regulations setting a minimum square footage of any structures subject to regulation under the Residential Code). Effective October 1, 2022. Provides that after that date any zoning or other development regulation inconsistent with GS 160D-702(c), as enacted, is void and unenforceable.

#### Section 12

Amends the definition of *home inspection* in GS 143-151.45, as applicable to Article 9F of the Chapter, which governs the North Carolina Home Inspector Licensure Board. Specifies that the term means written evaluations of listed components of a residential building based on observation or *noninvasive testing*, defined as testing methods which do not result in any damage to a component or system, such as tearing, puncturing, or gouging; permits probing a wood component or system to inspect for deterioration.

Amends GS 143-151.58 to require a licensed home inspection to give the person for whom the inspector performed an inspection for compensation, the report, absent a set date in a written agreement, within three business days after the inspection, or within ten business days after the inspection if the report describes State Residential Building Code deficiencies

(previously, did not provide an extension beyond the three business days). Revises subsection (a2) to consistently refer to the State Residential Building Code throughout. Applies to inspections conducted on or after October 1, 2022.

#### Section 13

Increases the thresholds for projects certain licensees are entitled to act as a general contractor for under GS 87-10, allowing the holder of an intermediate license to act as general contractor for any single project with a value of up to \$1.5 million (was, \$1 million), and the holder of a limited license to act as general contractor for any single project with a value of up to \$750,000 (was, \$500,000), excluding the cost of land and any ancillary costs to improve the land.

#### Section 14

Amends Section 6 of SL 2021-121, which directs the Building Code Council (Council) to implement Section D107 of the 2018 NC Fire Code and other provisions related to fire apparatus access roads for one- and two-family dwelling residential developments as specified by the Section. Changes the implementing directive to now instruct the Council to not require two or more separate and approved fire apparatus access roads in developments of one- or two-family dwellings where there are fewer than 100 dwelling units (previously, instructed the Council and Code enforcement official to not require an automatic sprinkler system in one- or two-family dwellings where there are fewer than 100 dwelling units on a single public or private fire apparatus access road with access from one direction). Maintains the requirements for the Council to adopt amendments consistent with this directive, as amended.

#### Section 15

Enacts GS 143-139.4(l), requiring the Commissioner of Insurance to contract with any individual, corporation, or other business entity that holds one of the applicable certificates as provided in GS 143-151.13 (including those of building inspectors, electrical inspectors, mechanical inspectors, plumbing inspectors, fire inspectors, and residential changeout inspectors) to conduct building inspections requested by permit holders who have been informed by a local inspection department that any inspection has not been, or will not be, conducted within two business days after first requested. Applies to inspections conducted on or after October 1, 2022.

#### Section 16

Updates statutory cross-references in GS 143-139 to refer to specified statutes in GS Chapter 160D, rather than GS Chapter 153A and 160A. Eliminates statutory cross-references to GS Chapters 153A and 160A in GS 143-139.4(k)(2), defining *local inspection department*.

#### Section 17

Amends Section 40.17, SL 2021-180, as enacted by Section 9.1(d) of SL 2021-189, and amended in Section 18.1 of SL 2022-6, changing the grants and funds allocated from the State Capital and Infrastructure Fund as follows. Directs that the \$8 million for Anson County for economic development of county facilities instead be provided to Anson Economic Development Corporation to be used for economic development purposes, including facilities.

#### Section 18

Applicable to permit applications filed and appeals filed before, on, and after the effective date of the act, amends GS 160D-706, which states governing law in instances of conflict between zoning regulations and statute or local ordinance or regulation. Currently, specifies that governing law is subject to GS 160A-174(b), which requires city ordinances to be consistent with the Constitution and laws of North Carolina and of the United States and enumerates six instances in which an ordinance is deemed inconsistent with the Constitution and laws of NC and the US. Replaces that clause, now providing that governing law is subject to GS 160A-704(b), and no longer specifying that the that statute only limits the authority of cities (appears to intend restatement of GS 160A-174(b), and eliminating the reference to its limited application to cities). States legislative intent for the provisions to clarify and restate the intent of existing law.

Makes technical and clarifying changes.

Makes conforming changes to the act's titles.

[View summary](#)

**Business and Commerce, Occupational Licensing, Development, Land Use and Housing, Building and Construction, Property and Housing, Government, Budget/Appropriations, State Agencies, UNC System, Department of Environmental Quality (formerly DENR), Department of Health and Human Services, Department of Insurance, Local Government, Health and Human Services, Health, Public Health, Public Enterprises and Utilities**

S 711 (2021) [NC COMPASSIONATE CARE ACT](#). Filed Apr 7 2021, *AN ACT ENACTING THE NORTH CAROLINA COMPASSIONATE CARE ACT*.

Senate amendment to the 5th edition makes the following changes.

Updates the legislative findings and purpose in GS 90-113.111 to provide that as of February 2022, 37 states, four territories, and DC have removed state-level criminal penalties for the medical use, cultivation, and distribution of cannabis, and in enacting new Article 5H, North Carolina now takes similar action to preserve and enhance the health and welfare of its citizens.

Amends the definition of Commission by correcting the cross-reference to the statute establishing the Medical Cannabis Production Commission (Commission).

Amends GS 90-113.114 as follows. Amends the advertising prohibition to now prohibit a physician from advertising the physician's ability to issue written certifications (was, may not advertise on the side of a medical cannabis center). Adds that a physician providing written certifications to qualified patients may not do either of the following: (1) be employed by or have any financial interest in a supplier or independent testing laboratory or (2) profit from a patient obtaining a written certification. Specifies that this does not prohibit a physician from charging an appropriate fee for patient visits.

Amends GS 90-113.115 to require the Department of Health and Human Services (Department), instead of the North Carolina Medical Care Commission, to adopt rules to implement the statute. Makes conforming changes in Section 2(c) of the act.

Amends GS 90-113.118 to require that the Commission, when approving medical cannabis supplier licenses, require that each supplier own and operate no more than eight (was, no more than four) medical cannabis centers.

Amends GS 90-113.119 by making a clarifying change.

Amends GS 90-113.120 by amending the amount charged for suppliers seeking license renewal, to include a renewal fee of no less than \$10,000 plus \$5,000 for each new production facility or medical cannabis center and \$1,000 for each existing facility or center (was, \$1,000 for each production facility or medical cannabis center, no matter if the facility or center was existing or new) the supplier proposes to operate under the license.

Amends GS 90-113.121 by making a clarifying change by referring to the entire Article instead of the individual statute.

Amends GS 90-113.122 by adding the requirement that licensed suppliers report to the Commission quarterly on all cannabis or cannabis-infused products the supplier sold or manufactured in the previous quarter.

Amends GS 90-113.130, which requires independent testing labs to analyze a representative sample of all cannabis or cannabis-infused products before they are sold or transferred by a production facility to a medical cannabis center. Now requires that an independent testing lab report the results of all required testing to the Department and to the Commission (was, report the results of all testing required by the Department to the Department). Also prohibits a person who owns, operates, or has a financial interest in, or is employed by an independent testing lab, from owning, operating, or having a financial interest in, or being employed by a supplier, a production facility, or a medical cannabis center.

Amends GS 90-113.131 by adding a prohibition on the advertisement of cannabis or cannabis-infused products in any manner except as allowed under the Article. Now requires the Department to consult with the Commission in adopting rules and

requires that those rules include monitoring standards in addition to defining standards for a medical cannabis center's name, signage, and logo to ensure a medical rather than recreational disposition.

Amends GS 90-113.134 by making the North Carolina Collaboratory, instead of the UNC System, responsible for creating the North Carolina Cannabis Research Project. Makes conforming changes. Allows the Collaboratory's academic research partners, in addition to the Collaboratory, to possess, transport, store, test, and dispose of cannabis as necessary to conduct scientific research and requires that it be research conducted under this statute.

Deletes proposed GS 90-113.135 concerning the development of an educational campaign about the regulated medical cannabis supply system that was to be advertised through television, online, or in social media.

Amends the provision providing for the staggered terms of members of the Compassionate Use Advisory Board to require that the terms of members appointed under GS 90-113.113(a)(1)f. have an initial term of two years. No longer requires that members appointed under f, g, and i. represent a specified area of experience or expertise. Removes provisions concerning the terms of members appointed under h. and i.

Changes the effective date of changes to GS 15A-974, concerning the exclusion or suppression of unlawfully obtained evidence, from December 1, 2021, to December 1, 2022.

**Intro. by Rabon, Lee, Lowe.**

[GS 15A, GS 90, GS 105, GS 106](#)

[View summary](#)

[Agriculture, Courts/Judiciary, Criminal Justice, Criminal Law and Procedure, Government, State Agencies, UNC System, Department of Health and Human Services, Tax, Health and Human Services, Health](#)

## LOCAL/SENATE BILLS

S 170 (2021) [NO ETJ IN HAYWOOD CTY/MAGGIE VALLEY DEV. AUTH. \(NEW\)](#) Filed Mar 1 2021, *AN ACT TO ELIMINATE THE EXTRATERRITORIAL JURISDICTION AUTHORITY OF MUNICIPALITIES IN HAYWOOD COUNTY, TO PROHIBIT THE TOWN OF MAGGIE VALLEY FROM ADOPTING OR ENFORCING ANY MORATORIA ON ANY DEVELOPMENT APPROVAL, AND TO EXPAND THE PROHIBITIONS ON DOWN-ZONING PROPERTY IN MAGGIE VALLEY.*

House committee substitute replaces the content of the 2nd edition with the following.

Applicable only to municipalities lying wholly in Haywood County, bars municipalities from exercising the powers of extraterritorial jurisdiction.

Disallows the Town of Maggie Valley from adopting or enforcing temporary moratoria on any development approval. Sunsets this prohibition on January 1, 2025.

Applicable to the Town of Maggie Valley only, amends GS 160D-601(d) to expand the definition of down-zoning to include a zoning ordinance that affects an area of land by limiting the options available, or adding additional requirements, to develop an area of land as specified in a zoning ordinance or land development regulation to depress or hinder development to the same extent allowed under its previous usage. Additionally, eliminates the provisions allowing for down-zoning amendments initiated by the relevant local government to be enforceable without the written consent of all subject property owners. Sunsets these changes on January 1, 2025.

Changes the act's titles.

**Intro. by Corbin, Alexander, Proctor.**

[Haywood](#)

[View summary](#)

[Development, Land Use and Housing, Land Use, Planning and Zoning](#)

**ACTIONS ON BILLS****PUBLIC BILLS****H 83: REV. LAWS TECH., CLARIFYING, & ADMIN. CHANGES. (NEW)**

*Senate: Regular Message Sent To House*

*House: Regular Message Received For Concurrence in S Com Sub*

**H 144: MEDICAID CHILDREN AND FAMILIES SPECIALTY PLAN. (NEW)**

*Senate: Reptd Fav Com Substitute*

*Senate: Com Substitute Adopted*

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

**H 149: EXPANDING ACCESS TO HEALTHCARE. (NEW)**

*Senate: Amend Adopted A3*

*Senate: Passed 3rd Reading*

*Senate: Engrossed*

*Senate: Special Message Sent To House*

*House: Special Message Received For Concurrence in S Com Sub*

*House: Ruled Material*

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

**H 193: 2020-2021 SCHOOL TRANSPORTATION FLEXIBILITY.**

*Senate: Withdrawn From Com*

*Senate: Re-ref to State and Local Government. If fav, re-ref to Rules and Operations of the Senate*

**H 315: ARSON LAW REVISIONS.**

*Senate: Reptd Fav*

**H 370: VETERANS EMPLOYMENT ACT. (NEW)**

*House: Regular Message Received For Concurrence in S Com Sub*

**H 615: JUVENILE COURT MENTAL HEALTH ASSESSMENTS.**

*Senate: Withdrawn From Com*

*Senate: Re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate*

*Senate: Re-ref to Judiciary. If fav, re-ref to Rules and Operations of the Senate*

**H 731: ADD'L PATH TO NC EARLY CHILDHOOD CREDENTIAL. (NEW)**

*Senate: Reptd Fav Com Substitute*

*Senate: Com Substitute Adopted*

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

**H 755: PARENTS' BILL OF RIGHTS. (NEW)**

*Senate: Regular Message Sent To House*

*House: Regular Message Received For Concurrence in S Com Sub*

**H 911: REGULATORY REFORM ACT OF 2022.**

*House: Regular Message Received For Concurrence in S Com Sub*

*House: Added to Calendar*

*House: Failed Concur In S Com Sub*

*House: Conf Com Appointed*

**H 1006: AMEND PRISON PILOT DEADLINES.**

*House: Regular Message Sent To Senate*

**H 1056: RET. & TREASURY ADMIN. CHANGES ACT OF 2022.-AB**

*House: Regular Message Sent To Senate*

**H 1058: RET. & TREASURY TECH. CORRECTIONS ACT OF 2022.-AB**

*House: Regular Message Sent To Senate*

**H 1099: JUDICIAL RETIREMENT/SURVIVOR BENEFITS PARITY.-AB**

*House: Regular Message Sent To Senate*

**S 455: CONFORM HEMP WITH FEDERAL LAW. (NEW)**

*House: Regular Message Sent To Senate*

**LOCAL BILLS****H 987: SHERIFF EXCEP. FOR DET. FACILITY FOOD PURCH.**

*House: Regular Message Sent To Senate*

*Senate: Regular Message Received From House*

*Senate: Passed 1st Reading*

*Senate: Ref To Com On Rules and Operations of the Senate*

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