

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1328*

Short Title: Env., Health, and Nat. Res. Dept. Restructuring.

(Public)

Sponsors: Senators Cooper; Odom, Blackmon, Plexico, and Horton.

Referred to: Agriculture/Environment/Natural Resources.

May 27, 1996

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT PHASE ONE OF THE RESTRUCTURING OF ENVIRONMENTAL PROGRAMS IN THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES AND TO MAKE CONFORMING STATUTORY CHANGES, AS RECOMMENDED BY THE ENVIRONMENTAL PROCESS ACTION TEAM OF THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND NATURAL RESOURCES AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(c) reads as rewritten:

"(c) Fee Distribution. – Fees collected for inspection stickers are payable to the Division of Motor Vehicles. The amount of each fee listed in the table below shall be credited to the Highway Fund, the Emissions Program Account established in subsection (d) of this section, the Volunteer Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad Workers' Relief Fund established in G.S. 58-88-5, and the Division of ~~Environmental Management~~ Air Quality of the Department of Environment, Health, and Natural Resources:

<u>Recipient</u>	<u>Safety Only</u>	<u>Emissions and</u>
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	<u>Sticker</u>	<u>Safety Sticker</u>
1 Highway Fund	.75	.00
2 Emissions Program Account	.00	1.80
3 Volunteer Rescue/EMS Fund	.15	.15
4 Rescue Squad Workers' Relief		
5 Fund .10.10		
6 Division of Environmental <u>Air</u>		
7 Management <u>Quality</u>	.00	.35."

8 Sec. 2. G.S. 87-94(f) is repealed.

9 Sec. 3. G.S. 106-802(4) reads as rewritten:

10 "(4) 'Siting' or 'site evaluation' means an investigation to determine if a site
 11 meets all federal and State standards as evidenced by the Waste
 12 Management Facility Site Evaluation Report on file with the Natural
 13 Resources Conservation Service or a comparable report certified by a
 14 professional engineer or a comparable report certified by a technical
 15 specialist approved by the North Carolina Soil and Water Conservation
 16 Commission and either of which report provides the basis for
 17 certification by the ~~Division of Environmental Management~~ Department of
 18 Environment, Health, and Natural Resources pursuant to the rules
 19 appearing in the North Carolina Administrative Code governing waste
 20 not discharged to surface waters."
 21

22 Sec. 4. G.S. 130A-291 reads as rewritten:

23 **"§ 130A-291. Division of ~~Solid Waste Management~~.**

24 (a) For the purpose of promoting and preserving an environment that is conducive
 25 to public health and welfare, and preventing the creation of nuisances and the depletion
 26 of our natural resources, the Department shall maintain a Division of ~~Solid Waste~~
 27 Management to promote sanitary processing, treatment, disposal, and statewide
 28 management of solid waste and the greatest possible recycling and recovery of resources,
 29 and the Department shall employ and retain ~~such~~ qualified personnel as may be necessary
 30 to effect such purposes. It is the purpose and intent of the State to be and remain
 31 cognizant not only of its responsibility to authorize and establish ~~the~~ a statewide solid
 32 waste management program, but also of its responsibility to monitor and supervise,
 33 through the Department, the activities and operations of units of local government
 34 implementing a permitted solid waste management facility serving a specified geographic
 35 area in accordance with a solid waste management plan.

36 (b) In furtherance of ~~said~~ this purpose and intent, it is hereby determined and
 37 declared that it is necessary for the health and welfare of the inhabitants of the State that
 38 solid waste management facilities permitted hereunder and serving a specified geographic
 39 area shall be used by public or private owners or occupants of all lands, buildings, and
 40 premises within ~~said~~ the geographic area, and a unit of local government may, by
 41 ordinance, require that all solid waste generated within said area and placed in the waste
 42 stream for disposal, shall be delivered to the permitted solid waste management facility or
 43 facilities serving ~~such~~ the geographic area. Actions taken pursuant to this Article shall be

1 deemed to be acts of the sovereign power of the State of North Carolina, and to the extent
2 reasonably necessary to achieve the purposes of this section, a unit of local government
3 may displace competition with public service for solid waste management and disposal.
4 It is further determined and declared that no person, firm, corporation, association or
5 entity within ~~said~~ the geographic area shall engage in any activities which would be
6 competitive with this purpose or with ordinances, rules adopted pursuant to the authority
7 granted herein."

8 Sec. 5. G.S. 130B-5(c) reads as rewritten:

9 "(c) The Governor is authorized to enter into interstate agreements for the
10 management of hazardous waste. Such agreements shall provide for access to suitable
11 facilities for management of hazardous waste; encourage reductions in the volume or
12 quantity and toxicity of hazardous waste; distribute the costs, benefits, and obligations of
13 hazardous waste management equitably among the party states; and provide for
14 protection of human health and the environment in a manner that is both ecologically and
15 economically sound. In negotiating such agreements, the Governor may request such
16 assistance as he deems appropriate from the Attorney General, the ~~Solid~~ Division of
17 Waste Management ~~Division~~ of the Department, and the Commission. The Governor
18 shall submit any such agreement to the General Assembly for its approval, and no such
19 agreement shall be effective until approved by the General Assembly."

20 Sec. 6. G.S. 130B-7(a)(1) reads as rewritten:

21 "(1) Shall (i) with the assistance of the ~~Solid~~ Division of Waste Management
22 ~~Division~~ of the Department, periodically review current and projected
23 hazardous waste generation from all sources within the State, the current
24 and projected effect of efforts to minimize and reduce the generation of
25 hazardous waste, the potential for further reductions in the generation of
26 hazardous waste, current and projected availability and adequacy of
27 facilities for the management of hazardous waste within and outside the
28 State, whether and to what extent private enterprise will provide needed
29 hazardous waste facilities, and capacity assurance requirements under
30 CERCLA/SARA, (ii) determine whether additional facilities for the
31 management of hazardous waste may be needed in this State, and (iii)
32 make appropriate recommendations to the Governor and the General
33 Assembly;".

34 Sec. 7. G.S. 130B-16(c)(2) reads as rewritten:

35 "(2) Funding of a portion of the cost of the Pollution Prevention Pays
36 Program, the waste minimization program administered by the
37 Technical Assistance and Support Unit of the ~~Solid~~ Division of Waste
38 Management ~~Division~~ of the Department, other programs which foster
39 multimedia waste prevention, reduction, reuse, and recycling, and
40 programs which provide assistance to small quantity generators."

41 Sec. 8. G.S. 130B-22(a) reads as rewritten:

42 "(a) To assist the Commission in the performance of its responsibilities under this
43 Chapter and to advise the General Assembly, there is created the Inter-Agency

1 Committee on Hazardous Waste (herein called the 'Committee'). The members shall be:
2 the Secretary or the Secretary's designee; the Director of the ~~Solid Waste Management~~
3 ~~Division~~ Division of Waste Management of the Department or his designee; the Chief of
4 the Hazardous Waste Management Section of the ~~Solid Waste Management Division~~
5 Division of Waste Management or his designee; one additional representative of the ~~Solid~~
6 ~~Waste Management Division~~ Division of Waste Management with expertise in
7 CERCLA/SARA capacity assurance requirements appointed by the Director of the
8 Division, the Chairman of the Commission or his designee; one additional member of the
9 Commission appointed by the Chairman of the Commission; the Executive Director of
10 the Commission; the Director of the Pollution Prevention Pays Program; four
11 representatives of the Department of Environment, Health, and Natural Resources with
12 expertise in geology, groundwater, water quality, and air quality; the representative of the
13 Attorney General's office who provides legal services to the Commission; and a
14 representative of the Attorney General's office who provides legal services to the ~~Solid~~
15 ~~Waste Management Division~~ Division of Waste Management designated by the Director of
16 the ~~Solid Waste Management Division~~ Division of Waste Management with the approval of
17 the Attorney General. The Secretary or the Secretary's designee shall serve as the
18 Chairman of the Committee, and the ~~Solid Waste Management Division~~ Division of Waste
19 Management of the Department shall provide professional and clerical support to the
20 Committee."

21 Sec. 9. G.S. 136-28.8(g) reads as rewritten:

22 "(g) ~~Beginning October 1, 1994,~~ On or before 1 October of each year, the Department
23 shall report ~~annually~~ to the ~~Office of Waste Reduction,~~ Division of Pollution Prevention and
24 Environmental Assistance of the Department of Environment, Health, and Natural
25 ~~Resources,~~ Resources as to the amounts and types of recycled materials that were
26 specified or used in contracts that were entered into during the previous fiscal year. ~~The~~
27 ~~Office of Waste Reduction~~ On or before 1 December of each year, the Division of Pollution
28 Prevention and Environmental Assistance shall prepare a summary of this report and
29 submit the summary ~~annually~~ to the Joint Legislative Commission on Governmental
30 ~~Operations,~~ Operations and the Environmental Review Commission."

31 Sec. 10. G.S. 143-58.2(d) reads as rewritten:

32 "(d) The Department of Administration, in cooperation with the ~~Office of Waste~~
33 ~~Reduction,~~ Division of Pollution Prevention and Environmental Assistance of the
34 Department of Environment, Health, and Natural Resources, shall identify materials and
35 supplies with recycled content that meet appropriate standards for use by State
36 departments, institutions, agencies, community colleges, and local school administrative
37 units."

38 Sec. 11. G.S. 143-58.2(f) reads as rewritten:

39 "(f) ~~Beginning October 1, 1994,~~ On or before 1 October of each year, each State
40 department, institution, agency, community college, and local school administrative unit
41 authorized to purchase materials and supplies shall report ~~annually~~ to the ~~Office of Waste~~
42 ~~Reduction,~~ Division of Pollution Prevention and Environmental Assistance of the
43 Department of Environment, Health, and Natural Resources, the amounts and types of

1 materials and supplies with recycled content that were purchased during the previous
2 fiscal year and its progress toward reaching the goals under G.S. 143-58.3. ~~The Office of~~
3 ~~Waste Reduction~~ On or before 1 December of each year, the Division of Pollution
4 Prevention and Environmental Assistance shall prepare a summary of these reports and
5 submit the summary annually to the Joint Legislative Commission on Governmental
6 Operations, Operations and the Environmental Review Commission."

7 Sec. 12. G.S. 143-214.2A(b)(6) is repealed.

8 Sec. 13. G.S. 143-215.3A(b1) reads as rewritten:

9 "(b1) The I & M Air Pollution Control Account is established as a nonreverting
10 account within the Department. Fees transferred to the Division of ~~Environmental~~
11 ~~Management~~ Air Quality of the Department pursuant to G.S. 20-183.7(c)(2) shall be
12 credited to the I & M Air Pollution Control Account and shall be applied to the costs of
13 developing and implementing an air pollution control program for mobile sources."

14 Sec. 14. G.S. 143-215.6A(h) is repealed.

15 Sec. 15. G.S. 143-215.17(b)(7) is repealed.

16 Sec. 16. G.S. 143-215.94O(a)(1) reads as rewritten:

17 "(1) An employee of the Department who is not employed by the section of
18 ~~the Division of Environmental Management~~ responsible for the
19 administration of the underground storage tank cleanup program who
20 shall be appointed by the Secretary and who shall serve at the pleasure
21 of the Secretary."

22 Sec. 17. G.S. 143-215.94W(g) is repealed.

23 Sec. 18. G.S. 143-215.114(g) is repealed.

24 Sec. 19. G.S. 143-439 reads as rewritten:

25 "(b) The Pesticide Advisory Committee shall consist of: three practicing farmers;
26 one conservationist (at large); one ecologist (at large); one representative of the pesticide
27 industry; one representative of agribusiness (at large); one local health director; three
28 members of the North Carolina State University School of Agriculture and Life Sciences,
29 at least one of which shall be from the area of wildlife or biology; one member
30 representing the North Carolina Department of Agriculture; one member representing the
31 Department of Environment, Health, and Natural Resources; the State Health Director or
32 his designee; one representative of a public utility or railroad company which uses
33 pesticides; one representative of the Board of Transportation; one member of the North
34 Carolina Agricultural Aviation Association; one member of the general public (at large);
35 one member actively engaged in forest pest management; and one member representing
36 the Division of ~~Solid~~ Waste Management of the Department of Environment, Health, and
37 Natural Resources. Each State agency represented [representative] on the Committee
38 shall be appointed by the head of the agency. Other members of the Committee shall be
39 appointed by the Board."

40 Sec. 20. G.S. 143B-279.3(c)(2) reads as rewritten:

41 "(2) There is hereby created a division within the environmental area of the
42 Department of Environment, Health, and Natural Resources to be
43 named the Division of ~~Solid~~ Waste Management. All functions, powers,

duties, and obligations of the Solid Waste Management Section of the Division of Health Services of the Department of Human Resources are transferred in their entirety to the Division of Solid-Waste Management of the Department of Environment, Health, and Natural Resources."

Sec. 21. G.S. 143B-282.1(f) reads as rewritten:

"(f) As used in this section, 'Secretary' means the Secretary of Environment, Health, and Natural Resources. ~~The Secretary may delegate his powers and duties under this section to the Director of the Division of Environmental Management of the Department of Environment, Health, and Natural Resources.~~"

Sec. 22. G.S. 147-45 reads as rewritten:

"§ 147-45. Distribution of copies of State publications.

The Secretary of State shall, at the State's expense, as soon as possible after publication, provide such number of copies of the Session Laws and Senate and House Journals to federal, State, and local governmental officials, departments and agencies, and to educational institutions of instruction and exchange use, as is set out in the table below:

<u>Agency or Institution</u>	<u>Laws</u>	<u>Journals</u>	Session	Assembly
Governor, Office of the			3	2
Lieutenant Governor, Office of the			1	1
Secretary of State, Department of the			3	3
Auditor, Department of the State			3	1
Treasurer, Department of the State			3	1
Local Government Commission			2	0
State Board of Education			1	0
Department of Public Instruction			3	1
Controller			1	0
Technical Assistance Centers			1 ea.	0
Department of Community Colleges			3	1
Justice, Department of				
Office of the Attorney General			25	3
Budget Bureau (Administration)			1	0
Property Control (Administration)			1	1
State Bureau of Investigation			1	0
Agriculture, Department of			3	1
Labor, Department of			5	1
Insurance, Department of			5	1
Administration, Department of			1	1
Budget Bureau			2	1
Controller			1	0
Property Control			1	0
Purchase and Contract			2	0
Policy and Development			1	0

1	Veterans Affairs Commission	1	0
2	Environment, Health, and Natural		
3	Resources, Department of	46	0
4	Division of Environmental Management	2	0
5	Board of Environment, Health, and		
6	Natural Resources	4	0
7	Soil and Water Conservation Commission	4	0
8	Wildlife Resources Commission	2	0
9	Revenue, Department of	5	1
10	Human Resources, Department of	36	0
11	Board of Human Resources	4	0
12	Health Services, Division of	3	0
13	Mental Health, Developmental		
14	Disabilities, and Substance Abuse Services,		
15	Division of	1	0
16	Social Services, Division of	3	0
17	Facilities Services, Division of	1	0
18	Youth Services, Division of	1	0
19	Hospitals and Institutions	1 ea.	0
20	Transportation, Department of	1	0
21	Board of Transportation	3	0
22	Motor Vehicles, Division of	1	0
23	Commerce, Department of	1	0
24	Economic Development, Division of	2	0
25	State Ports Authority	1	0
26	Alcoholic Beverage Control Commission,		
27	North Carolina	2	0
28	Banking Commission	2	0
29	Utilities Commission	8	1
30	Industrial Commission	7	0
31	Labor Force Development Council	1	0
32	Milk Commission	5	0
33	Employment Security Commission	1	1
34	Correction, Department of	1	0
35	Department of Correction	2	0
36	Parole Commission	2	0
37	State Prison	1	0
38	Correctional Institutions	1 ea.	0
39	Cultural Resources, Department of	1	0
40	Archives and History, Division of	5	1
41	State Library	5	5
42	Publications Division	1	1
43	Crime Control and Public Safety,		

1	Department of	2	1
2	North Carolina Crime Commission	1	0
3	Adjutant General	2	0
4	Elections, State Board of	2	0
5	Office of Administrative Hearings	2	0
6	State Personnel Commission	1	0
7	Office of State Personnel	1	1
8	Legislative Branch		
9	State Senators	1 ea.	1 ea.
10	State Representatives	1 ea.	1 ea.
11	Principal Clerk – Senate	1	1
12	Principal Clerk – House	1	1
13	Reading Clerk – Senate	1	1
14	Reading Clerk – House	1	1
15	Sergeant at Arms – House	1	1
16	Sergeant at Arms – Senate	1	1
17	Enrolling Clerk	1	0
18	Engrossing Clerk	1	0
19	Indexer of the Laws	1	0
20	Legislative Building Library	35	15
21	Judicial System		
22	Justices of the Supreme Court	1 ea.	1 ea.
23	Judges of the Court of Appeals	1 ea.	1 ea.
24	Judges of the Superior Court	1 ea.	0
25	Emergency and Special Judges of the		
26	Superior Court	1 ea.	0
27	District Court Judges	1 ea.	0
28	District Attorneys	1 ea.	0
29	Clerk of the Supreme Court	1	1
30	Clerk of the Court of Appeals	1	1
31	Administrative Office of the Courts	4	1
32	Supreme Court Library	AS MANY AS REQUESTED	
33	Colleges and Universities		
34	The University of North Carolina System		
35	Administrative Offices	3	0
36	University of North Carolina, Chapel Hill	65	25
37	University of North Carolina, Charlotte	3	1
38	University of North Carolina, Greensboro	3	1
39	University of North Carolina, Asheville	2	1
40	University of North Carolina, Wilmington	2	1
41	North Carolina State University, Raleigh	5	3
42	Appalachian State University	2	1
43	East Carolina University	3	2

1	Elizabeth City State University	2	1
2	Fayetteville State University	2	1
3	North Carolina Agricultural and		
4	Technical University	2	1
5	North Carolina Central University	5	5
6	Western Carolina University	2	1
7	Pembroke State University	2	1
8	Winston-Salem State University	2	1
9	North Carolina School of the Arts	1	1
10	Private Institutions		
11	Duke University	6	6
12	Davidson College	3	2
13	Wake Forest University	5	5
14	Lenoir Rhyne College	1	1
15	Elon College	1	1
16	Guilford College	1	1
17	Campbell University	5	5
18	Wingate College	1	1
19	Pfeiffer College	1	1
20	Barber Scotia College	1	1
21	Barton College	1	1
22	Shaw University	1	1
23	St. Augustine's College	1	1
24	J.C. Smith University	1	1
25	Belmont Abbey College	1	1
26	Bennett College	1	1
27	Catawba College	1	1
28	Gardner-Webb College	1	1
29	Greensboro College	1	1
30	High Point College	1	1
31	Livingstone College	1	1
32	Mars Hill College	1	1
33	Meredith College	1	1
34	Methodist College	1	1
35	North Carolina Wesleyan College	1	1
36	Queens College	1	1
37	Sacred Heart College	1	1
38	St. Andrews Presbyterian College	1	1
39	Salem College	1	1
40	Warren Wilson College	1	1
41	County and Local Officials		
42	Clerks of the Superior Court	1 ea.	1 ea.
43	Register of Deeds	1 ea.	1 ea.

1	Federal, Out-of-State and Foreign		
2	Secretary to the President	1	0
3	Secretary of State	1	1
4	Secretary of Defense	1	0
5	Secretary of Agriculture	1	0
6	Secretary of the Interior	1	0
7	Secretary of Labor	1	1
8	Secretary of Commerce	1	1
9	Secretary of the Treasury	1	0
10	Secretary of Health, Education and Welfare	1	0
11	Secretary of Housing and Urban Development	1	0
12	Secretary of Transportation	1	0
13	Attorney General	1	0
14	Postmaster General	1	0
15	Bureau of Census	1	0
16	Bureau of Public Roads	1	0
17	Department of Justice	1	0
18	Department of Internal Revenue	1	0
19	Veterans' Administration	1	0
20	Farm Credit Administration	1	0
21	Securities and Exchange Commission	1	0
22	Social Security Board	1	0
23	Environmental Protection Agency	1	0
24	Library of Congress	8	2
25	Federal Judges resident in North Carolina	1 ea.	0
26	Federal District Attorneys resident in		
27	North Carolina	1 ea.	0
28	Marshal of the United States Supreme Court	1	0
29	Federal Clerks of Court resident in North Carolina		1 ea. 0
30	Supreme Court Library exchange list	1 ea.	0

31
32 One copy of the Session Laws shall be furnished the head of any department of State
33 government created in the future.

34 State agencies, institutions, etc., not found in or covered by this list may, upon written
35 request from their respective department head to the Secretary of State, and upon the
36 discretion of the Secretary of State as to need, be issued copies of the Session Laws on a
37 permanent loan basis with the understanding that should said copies be needed they will
38 be recalled."

39 Sec. 23. G.S. 159G-3(12) reads as rewritten:

40 "(12) 'Receiving agency' means the Division of Environmental Health with
41 respect to receipt of applications for revolving loans and grants for
42 water supply systems, and the Environmental Management
43 Commission and the Division of ~~Environmental Management~~ Water

1 Quality with respect to receipt of applications for revolving loans
2 and grants for wastewater systems."

3 Sec. 24. G.S. 159I-3(6) reads as rewritten:

4 "(6) 'Division' means the Division of ~~Solid~~–Waste Management of the
5 Department of Environment, Health, and Natural Resources and any
6 successor of ~~said Division~~–the Division of Waste Management."

7 Sec. 25. References in the Session Laws to any division of the Department of
8 Environment, Health, and Natural Resources that is subdivided or renamed by this act
9 shall be deemed to refer to the successor division. Every Session Law that refers to any
10 division of the Department of Environment, Health, and Natural Resources to which this
11 act applies or that relates to any power, duty, function, or obligation of any of those
12 divisions and that continues in effect after this act becomes effective shall be construed so
13 as to be consistent with this act. The repeal by this act of language authorizing the
14 Secretary of Environment, Health, and Natural Resources to delegate any power, duty, or
15 function is intended to repeal redundant language and does not alter the power of the
16 Secretary of Environment, Health, and Natural Resources to assign or reassign any
17 function vested in the Secretary or the Department of Environment, Health, and Natural
18 Resources under G.S. 143B-10(a). This act shall not be construed to affect any pending
19 action by or obligation due to any division of the Department of Environment, Health,
20 and Natural Resources that is subdivided or renamed by this act.

21 Sec. 26. G.S. 159I-30(e) reads as rewritten:

22 "(e) Special obligation bonds and notes shall be special obligations of the unit of
23 local government issuing them. The principal of, and interest and any premium on,
24 special obligation bonds and notes shall be payable solely from any one or more of the
25 sources of payment authorized by this section as may be specified in the proceedings,
26 resolution, or trust agreement under which they are authorized or secured. Neither the
27 faith and credit nor the taxing power of the unit of local government are pledged for the
28 payment of the principal of, or interest or any premium on, any special obligation bonds
29 or notes, and no owner of special obligation bonds or notes has the right to compel the
30 exercise of the taxing power by the unit in connection with any default thereon. Every
31 special obligation bond and note shall recite in substance that the principal and interest
32 and any premium on such bond or note are payable solely from the sources of payment
33 specified in the bond order or trust, agreement under which it is authorized or secured,
34 provided that:

35 (1) Any such use of such sources will not constitute a pledge of the unit's
36 taxing ~~owner~~–power; and

37 (2) The municipality is not obligated to pay such principal or interest or
38 premium except from such sources."

39 Sec. 27. This act becomes effective 1 July 1996.