

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 802\*

Short Title: Env. Tech. Corrections.

(Public)

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Sponsors: Senator Walker.

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Referred to: Environment and Natural Resources.

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April 24, 1991

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL  
2 AMENDMENTS TO VARIOUS LAWS RELATING TO ENVIRONMENT,  
3 HEALTH, AND NATURAL RESOURCES.  
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 74-53(3) reads as rewritten:

7 "(3) ~~In open cast~~ At open pit mining operations, all overburden and spoil  
8 shall be left in a configuration which is in accordance with accepted  
9 conservation practices and which is suitable for the proposed  
10 subsequent use of the land."

11 Sec. 2. G.S. 104E-8(c)(6) reads as rewritten:

12 "(6) The Division of Radiation Protection of the ~~Department [of]~~  
13 ~~Environment, Health, and Natural [Resources];~~ Department."

14 Sec. 3. G.S. 104E-8(g) reads as rewritten:

15 "(g) All clerical and other services required by the Commission shall be supplied  
16 by the ~~Secretary of Environment, Health, and Natural [Resources];~~ Secretary."

17 Sec. 4. G.S. 115C-323 is amended by deleting the phrase "Secretary of  
18 Human Resources" and substituting "Secretary of Environment, Health, and Natural  
19 Resources".

20 Sec. 5. G.S. 120-70.33(3) reads as rewritten:

21 "(3) To evaluate actions of the Governor's Waste Management Board, the  
22 Radiation Protection Commission, and the ~~Radiation Protection Section~~  
23 ~~of the Department of Human Resources;~~ Division of Radiation Protection  
24 of the Department of Environment, Health, and Natural Resources, and

1 of any other board, commission, department, or agency of the State or  
2 local government as such actions relate to low-level radioactive waste  
3 management;"

4 Sec. 6. G.S. 130A-11 reads as rewritten:

5 **"§ 130A-11. Residencies in public health.**

6 The Department shall establish a residency program designed to attract physicians  
7 and dentists into the field of public health and to train them in the specialty of public  
8 health practice. The program shall include practical experience in public health  
9 principles and practices."

10 Sec. 7. G.S. 130A-290(b) is amended by deleting the citation "130A-  
11 309.17" and substituting "G.S. 130A-309.24".

12 Sec. 8. G.S. 143-214.5(g) reads as rewritten:

13 "(g) Civil Penalties. – A local government which fails to adopt a local water  
14 supply watershed protection program as required by this section shall be subject to a  
15 civil penalty pursuant to G.S. ~~143-215.6(a)(5)~~. 143-215.6A(e). In any area of the State  
16 which is not covered by an approved local water supply watershed protection program,  
17 any person who violates or fails to act in accordance with any statewide minimum  
18 management requirement established pursuant to this section shall be subject to a civil  
19 penalty as specified in G.S. ~~143-215.6(a)(1)g~~. 143-215.6A(a)(7)."

20 Sec. 9. G.S. 143-215.36(b)(4) reads as rewritten:

21 "(4) ~~If the person assessed fails to pay the amount of the assessment to the~~  
22 ~~Department within 30 days after receipt of notice, the Commission~~  
23 ~~may request the Attorney General to institute a civil action in the~~  
24 ~~superior court of the county or counties in which the person assessed~~  
25 ~~resides or has his or its principal place of business, to recover the~~  
26 ~~amount of the assessment.~~—The Secretary shall notify any person  
27 assessed a civil penalty of the assessment and the specific reasons  
28 therefor by registered or certified mail, or by any means authorized by  
29 G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30  
30 days of receipt of the notice of assessment."

31 Sec. 10. G.S. 143-215.36(b)(7) reads as rewritten:

32 "(7) The Secretary may delegate his powers and duties under this section to  
33 the Director of the Division of ~~Environmental Management~~ Land  
34 Resources of the Department."

35 Sec. 11. G.S. 143-215.45 reads as rewritten:

36 **"§ 143-215.45. Transfer of right of withdrawal.**

37 A person with a right of withdrawal may assign or transfer it in whole or in part to  
38 another, subject to those rights of reassignment or transfer by the State specified in G.S.  
39 ~~143-354(11)~~. 143-353(a)(11). A person who has a right of withdrawal of excess volume  
40 of water by virtue of an assignment or transfer has an interest in water superior to other  
41 interests only to the extent that his withdrawal is in accordance with the terms of the  
42 assignment or transfer."

43 Sec. 12. G.S. 143-215.94EE(b) reads as rewritten:

1       "(b) Any unexplained discharge of oil, natural gas or drilling wastes occurring in  
2 waters beyond the jurisdiction of the State that for any reason penetrates within State  
3 jurisdiction shall be removed by or under the direction of the Department. Except for  
4 any expenses incurred by the responsible person, should such person become known, all  
5 expenses incurred in the removal of such discharges shall be paid promptly by the State  
6 from the ~~'Oil and Oil or Other Hazardous Substances Pollution Protection Fund'~~Fund  
7 established pursuant to G.S. 143-215.87 or from any other available sources. In the case  
8 of unexplained discharges, the matter shall be referred by the Secretary to the North  
9 Carolina Attorney General for collection of damages pursuant to G.S. 143-215.94FF of  
10 this Part. At his discretion, the Attorney General may refer the matter to the State  
11 Bureau of Investigation or other appropriate State or federal authority to determine the  
12 identity of the responsible person."

13               Sec. 13. G.S. 143-215.94II(d) reads as rewritten:

14       "(d) In addition to the powers enumerated in G.S. 14-288.15, in the case of such  
15 an emergency described in subsection (a) of this section, the Governor is further  
16 authorized and empowered to transfer any funds available to him by statute for  
17 emergency use into the ~~'Oil and Oil or Other Hazardous Substances Pollution Protection~~  
18 ~~Fund'~~Fund created pursuant to G.S. 143-215.87, to be utilized for the purposes specified  
19 therein."

20               Sec. 14. (a) G.S.143-350 reads as rewritten:

21       "**§ 143-350. Definitions.**

22       ~~Definitions as~~ As used in this Article:

23               (1) ~~'Environmental Management Commission'~~ 'Commission' means the  
24 Environmental Management ~~Commission~~ Commission created by G.S. 143B-282.  
25 Commission.

26               (2) 'Department' means the Department of Environment, Health, and  
27 Natural ~~Resources~~ Resources."

28       (b) The Revisor of Statutes shall delete the phrase "Environmental Management  
29 Commission" wherever it occurs in Article 38 of Chapter 143 of the General Statutes  
30 and substitute the word "Commission".

31               Sec. 15. G.S.143B-139.4 reads as rewritten:

32       "**§ 143B-139.4. ~~Department of Human Resources; authority~~ Authority to assist**  
33 **private nonprofit foundations.**

34       (a) The Secretary of ~~the Department of Human Resources~~ and the Secretary of  
35 Environment, Health, and Natural Resources may allow employees of ~~the Department or~~  
36 ~~provide other appropriate services~~ their departments to provide appropriate services to  
37 assist any private nonprofit foundation which works directly with services or programs  
38 of the Department and whose sole purpose is to support the services and programs of  
39 the Department. ~~A Department~~ An employee shall be allowed to work with a foundation  
40 no more than twenty hours in any one month. These services are not subject to the  
41 provisions of Chapter 150B of the General Statutes.

42       (b) The board of directors of each ~~private, nonprofit~~ foundation that receives  
43 services under subsection (a) of this section shall secure and pay for the services of the  
44 State Auditor's Office or employ a certified public accountant to conduct an annual

1 audit of the financial accounts of the foundation. The board of directors shall transmit  
2 to the Secretary of the ~~Department~~department that provides services a copy of the  
3 annual financial audit report of the private nonprofit foundation."

4           Sec. 16. (a) The first sentence of Section 31 of Chapter 1004 of the 1989  
5 Session Laws (1990 Regular Session) is amended by deleting "143-279.3" and  
6 substituting "143B-279.3".

7           (b) G.S. 143B-279.3(b)(18), as amended by Section 31 of Chapter 1004 of the  
8 1989 Session Laws (1990 Regular Session) and subsection (a) of this section, is  
9 amended by inserting the word "Heritage" after the word "Natural".

10           (c) Sections 223, 224, 226, and 227 of Chapter 727 of the 1989 Session Laws  
11 apply to this section and to G.S. 143B-279.3, as amended by Section 31 of Chapter  
12 1004 of the 1989 Session Laws (1990 Regular Session) and this section.

13           (d) This section is effective on and after 1 July 1989.

14           Sec. 17. G.S. 143B-285.11(4) reads as rewritten:

15           "(4) 'Hazardous waste ~~landfill~~disposal facility' has the same meaning as in  
16 G.S. 130A-290."

17           Sec. 18. G.S. 153A-299.4 reads as rewritten:

18 **"§ 153A-299.4. Approval by Department of ~~Human~~Environment, Health, and**  
19 **Natural Resources.**

20           The Department of ~~Human~~Environment, Health, and Natural Resources must  
21 approve all contracts entered into pursuant to this Part before such contract may become  
22 effective."

23           Sec. 19. Except as otherwise provided herein, this act is effective upon  
24 ratification.