GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2007

H HOUSE BILL 1611

Short Title: Stormwater Requirements' Cost to County/City.

(Public)

Sponsors: Representative McElraft.

Referred to: Environment and Natural Resources, if favorable, Appropriations.

April 19, 2007

1 A BILL TO BE ENTITLED 2 AN ACT TO REQUIRE THE ENVIRONMENTAL MANAGEMENT COMMISSION 3 TO PREPARE AND SUBMIT A FISCAL NOTE TO: (1) A COUNTY IN WHICH 4 DEVELOPMENT IN THE UNINCORPORATED AREAS OF THE COUNTY IS 5 **SUBJECT** TO CERTAIN POST-CONSTRUCTION **STORMWATER** 6 MANAGEMENT STANDARDS BASED UPON THE COUNTY CONTAINING 7 AN AREA THAT IS DESIGNATED AS AN URBANIZED AREA AND 8 MEETING CERTAIN OTHER CRITERIA AND (2) A MUNICIPALITY THAT THE COMMISSION IDENTIFIES AS A CANDIDATE FOR DESIGNATION AS 9 10 A REGULATED ENTITY THROUGH THE STATE DESIGNATION PROCESS 11 THAT IS PART OF THE IMPLEMENTATION OF FEDERAL PHASE II 12 STORMWATER MANAGEMENT REQUIREMENTS.

The General Assembly of North Carolina enacts:

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SECTION 1. Subdivision (4) of subsection (a) of Section 4(a) of S.L. 2006-246 reads as rewritten:

"(4) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in subdivision (2) of subsection (a) of this section; (iii) the area delineated pursuant to subsection (b) of this section; (iv) the jurisdiction of a regulated entity designated pursuant to Section 5 of this act; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Section 6 of this act; and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed seventy-five percent (75%) of the total geographic area of the county. The Commission shall prepare a fiscal note for each county subject to this

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subdivision, stating the amount by which complying with the standards set forth in Section 9 of this act would increase or decrease expenditures or revenues of the county and explaining how the amount was computed; shall consider the timing of making the standards effective so as to minimize the effects on the county's budget; and shall submit this fiscal note to the county within 10 days of the Commission's determination that the county is subject to this subdivision. For purposes of this subdivision, the stormwater programs administered by the Division are:

- a. Water Supply Watershed I (WS-I) 15A NCAC 2B.0212.
- b. Water Supply Watershed II (WS-II) 15A NCAC 2B.0214.
- c. Water Supply Watershed III (WS-III) 15A NCAC 2B.0215.
- d. Water Supply Watershed IV (WS-IV) 15A NCAC 2B.0216.
- e. High Quality Waters (HQW) 15A NCAC 2H.1006.
- f. Outstanding Resource Waters (ORW) 15A NCAC 2H.1007.
- g. The Coastal Stormwater Program 15A NCAC 2H.1005.
- h. The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy 15A NCAC 2B.0235.
- i. The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy 15A NCAC 2B.0258.
- j. The Randleman Lake Water Supply Watershed Nutrient Management Strategy 15A NCAC 2B.0251.
- k. Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 2B.0223."

SECTION 2. Section 5(2) of S.L. 2006-246 reads as rewritten:

- "(2) State designation process. The Commission shall designate a public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated entity as provided in this subdivision.
 - a. Designation schedule. The Commission shall implement the designation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - b. Identification of candidate regulated entities. The Commission shall identify a public entity as a candidate for designation as a regulated entity if the municipal separate storm sewer system (MS4) either:
 - 1. Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that causes or contributes to a violation of water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.

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- 2. Serves a public entity that has not been designated pursuant to subdivision (1) of this section and that has either a population of more than 10,000 or more than 4,000 housing units and either a population density of 1,000 people per square mile or more or more than 400 housing units per square mile.
- Notice and comment on eandidacy: candidacy; fiscal note for c. municipal candidates. - The Commission shall notify each public entity identified as a candidate for designation as a regulated entity. After notification of each public entity, the Commission shall publish a list of all public entities within a river basin that have been identified as candidates for designation. The Commission shall prepare a fiscal note for each municipality identified as a candidate for designation as a regulated entity, stating the amount by which designation as a regulated entity would increase or decrease expenditures or revenues of the municipality and explaining how the amount was computed; shall consider the timing of implementation of the designation so as to minimize the effects on the municipality's budget; and shall submit this fiscal note to the municipality within 10 days of notification to the municipality. The Commission shall accept public comment on the proposed designation of a public entity as a regulated entity for a period of not less than 30 days.
- d. Designation of regulated entities. After review of the public comment, the Commission shall make a determination on designation for each of the candidate public entities. The Commission shall designate a candidate public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated public entity only if the Commission determines either that:
 - 1. The public entity has an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years.
 - 2. The public entity has a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years.
 - 3. The public entity has an actual population increase that exceeds fifteen percent (15%) of its previous population for the previous two years.
 - 4. The municipal separate storm sewer system (MS4) discharges stormwater that adversely impacts water quality.

- 5. The municipal separate storm sewer system (MS4) 1 2 discharges stormwater that results in a significant 3 contribution of pollutants to receiving waters, taking into 4 account the effectiveness of other applicable water 5 protection programs. To determine 6 effectiveness of other applicable water quality protection 7 programs, the Commission shall consider the water 8 quality of the receiving waters and whether the waters 9 support the uses set out in subsections (c), (d), and (e) of 10 15A NCAC 2B .0101 (Procedures for Assignment of 11 Water Quality Standards – General Procedures) and the 12 specific classification of the waters set out in 15A NCAC 13 2B .0300, et seq. (Assignment of Stream Classifications). 14 e. Notice of designation. – The Commission shall provide written 15 notice to each public entity of its designation determination. For 16 a public entity designated as a regulated entity, the notice shall 17 state the basis for the designation and the date on which an 18 application for a Phase II National Pollutant Discharge 19 Elimination System (NPDES) permit for stormwater 20 management must be submitted to the Commission. 21 f. Application schedule. – A public entity that has been designated 22 as a regulated entity pursuant to this subdivision must submit its 23 application for a Phase II National Pollutant Discharge 24 Elimination System (NPDES) permit for stormwater
 - **SECTION 3.** Section 1 of this act becomes effective July 1, 2007. Section 2 of this act is effective retroactively to July 1, 2006.

management within 18 months of the date of notification."

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