

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**D**

**HOUSE DRH60275-LD-159B (03/21)**

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

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Sponsors: Representative McElraft.

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Referred to:

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A BILL TO BE ENTITLED

1  
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  
9 THE COMMISSION IDENTIFIES AS A CANDIDATE FOR DESIGNATION AS  
10 A REGULATED ENTITY THROUGH THE STATE DESIGNATION PROCESS  
11 THAT IS PART OF THE IMPLEMENTATION OF FEDERAL PHASE II  
12 STORMWATER MANAGEMENT REQUIREMENTS.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.** Subdivision (4) of subsection (a) of Section 4(a) of S.L.  
15 2006-246 reads as rewritten:

16 "(4) A county that contains an area that is designated as an urbanized area  
17 under the most recent federal decennial census in which the  
18 unduplicated sum of: (i) the area that is designated as an urbanized  
19 area under the most recent federal decennial census; (ii) the area  
20 described in subdivision (2) of subsection (a) of this section; (iii) the  
21 area delineated pursuant to subsection (b) of this section; (iv) the  
22 jurisdiction of a regulated entity designated pursuant to Section 5 of  
23 this act; (v) the area that is regulated by a Phase II National Pollutant  
24 Discharge Elimination System (NPDES) permit for stormwater  
25 management required pursuant to Section 6 of this act; and (vi) areas  
26 in the county that are subject to any of the stormwater management  
27 programs administered by the Division equal or exceed seventy-five

1 percent (75%) of the total geographic area of the county. The  
2 Commission shall prepare a fiscal note for each county subject to this  
3 subdivision, stating the amount by which complying with the standards  
4 set forth in Section 9 of this act would increase or decrease  
5 expenditures or revenues of the county and explaining how the amount  
6 was computed; shall consider the timing of making the standards  
7 effective so as to minimize the effects on the county's budget; and shall  
8 submit this fiscal note to the county within 10 days of the  
9 Commission's determination that the county is subject to this  
10 subdivision. For purposes of this subdivision, the stormwater programs  
11 administered by the Division are:

- 12 a. Water Supply Watershed I (WS-I) – 15A NCAC 2B.0212.
- 13 b. Water Supply Watershed II (WS-II) – 15A NCAC 2B.0214.
- 14 c. Water Supply Watershed III (WS-III) – 15A NCAC 2B.0215.
- 15 d. Water Supply Watershed IV (WS-IV) – 15A NCAC 2B.0216.
- 16 e. High Quality Waters (HQW) – 15A NCAC 2H.1006.
- 17 f. Outstanding Resource Waters (ORW) – 15A NCAC 2H.1007.
- 18 g. The Coastal Stormwater Program – 15A NCAC 2H.1005.
- 19 h. The Neuse River Basin Nutrient Sensitive Waters (NSW)
- 20 Management Strategy – 15A NCAC 2B.0235.
- 21 i. The Tar-Pamlico River Basin Nutrient Sensitive (NSW)
- 22 Management Strategy – 15A NCAC 2B.0258.
- 23 j. The Randleman Lake Water Supply Watershed Nutrient
- 24 Management Strategy – 15A NCAC 2B.0251.
- 25 k. Other Environmental Management Commission Nutrient
- 26 Sensitive Waters (NSW) Classifications – 15A NCAC
- 27 2B.0223."

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

29 "(2) State designation process. – The Commission shall designate a public  
30 entity that owns or operates a municipal separate storm sewer system  
31 (MS4) as a regulated entity as provided in this subdivision.

32 a. Designation schedule. – The Commission shall implement the  
33 designation process in accordance with the schedule for review  
34 and revision of basinwide water quality management plans as  
35 provided in G.S. 143-215.8B(c).

36 b. Identification of candidate regulated entities. – The  
37 Commission shall identify a public entity as a candidate for  
38 designation as a regulated entity if the municipal separate storm  
39 sewer system (MS4) either:

- 40 1. Discharges stormwater that has the potential to adversely  
41 impact water quality. An adverse impact on water quality  
42 includes any activity that causes or contributes to a  
43 violation of water quality standards, including, but not

- 1 limited to, any activity that impairs designated uses or  
2 that has a significant biological or habitat impact.
- 3 2. Serves a public entity that has not been designated  
4 pursuant to subdivision (1) of this section and that has  
5 either a population of more than 10,000 or more than  
6 4,000 housing units and either a population density of  
7 1,000 people per square mile or more or more than 400  
8 housing units per square mile.
- 9 c. Notice and comment on ~~candidacy~~-candidacy; fiscal note for  
10 municipal candidates. – The Commission shall notify each  
11 public entity identified as a candidate for designation as a  
12 regulated entity. After notification of each public entity, the  
13 Commission shall publish a list of all public entities within a  
14 river basin that have been identified as candidates for  
15 designation. The Commission shall prepare a fiscal note for  
16 each municipality identified as a candidate for designation as a  
17 regulated entity, stating the amount by which designation as a  
18 regulated entity would increase or decrease expenditures or  
19 revenues of the municipality and explaining how the amount  
20 was computed; shall consider the timing of implementation of  
21 the designation so as to minimize the effects on the  
22 municipality's budget; and shall submit this fiscal note to the  
23 municipality within 10 days of notification to the municipality.  
24 The Commission shall accept public comment on the proposed  
25 designation of a public entity as a regulated entity for a period  
26 of not less than 30 days.
- 27 d. Designation of regulated entities. – After review of the public  
28 comment, the Commission shall make a determination on  
29 designation for each of the candidate public entities. The  
30 Commission shall designate a candidate public entity that owns  
31 or operates a municipal separate storm sewer system (MS4) as a  
32 regulated public entity only if the Commission determines  
33 either that:
- 34 1. The public entity has an actual population growth rate  
35 that exceeds 1.3 times the State population growth rate  
36 for the previous 10 years.
  - 37 2. The public entity has a projected population growth rate  
38 that exceeds 1.3 times the projected State population  
39 growth rate for the next 10 years.
  - 40 3. The public entity has an actual population increase that  
41 exceeds fifteen percent (15%) of its previous population  
42 for the previous two years.

1                   4.     The municipal separate storm sewer system (MS4)  
2                   discharges stormwater that adversely impacts water  
3                   quality.

4                   5.     The municipal separate storm sewer system (MS4)  
5                   discharges stormwater that results in a significant  
6                   contribution of pollutants to receiving waters, taking into  
7                   account the effectiveness of other applicable water  
8                   quality protection programs. To determine the  
9                   effectiveness of other applicable water quality protection  
10                  programs, the Commission shall consider the water  
11                  quality of the receiving waters and whether the waters  
12                  support the uses set out in subsections (c), (d), and (e) of  
13                  15A NCAC 2B .0101 (Procedures for Assignment of  
14                  Water Quality Standards – General Procedures) and the  
15                  specific classification of the waters set out in 15A NCAC  
16                  2B .0300, et seq. (Assignment of Stream Classifications).

17                  e.     Notice of designation. – The Commission shall provide written  
18                  notice to each public entity of its designation determination. For  
19                  a public entity designated as a regulated entity, the notice shall  
20                  state the basis for the designation and the date on which an  
21                  application for a Phase II National Pollutant Discharge  
22                  Elimination System (NPDES) permit for stormwater  
23                  management must be submitted to the Commission.

24                  f.     Application schedule. – A public entity that has been designated  
25                  as a regulated entity pursuant to this subdivision must submit its  
26                  application for a Phase II National Pollutant Discharge  
27                  Elimination System (NPDES) permit for stormwater  
28                  management within 18 months of the date of notification."

29                  **SECTION 3.** Section 1 of this act becomes effective July 1, 2007. Section 2  
30                  of this act is effective retroactively to July 1, 2006.