

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

SESSION LAW 2013-413  
HOUSE BILL 74

AN ACT TO IMPROVE AND STREAMLINE THE REGULATORY PROCESS IN ORDER TO STIMULATE JOB CREATION, TO ELIMINATE UNNECESSARY REGULATION, TO MAKE VARIOUS OTHER STATUTORY CHANGES, AND TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES LAWS.

The General Assembly of North Carolina enacts:

**PART I. IMPROVE RULE-MAKING PROCESS**

**SECTION 1.** G.S. 150B-2 is amended by adding a new subdivision to read:

"(7a) "Policy" means any nonbinding interpretive statement within the delegated authority of an agency that merely defines, interprets, or explains the meaning of a statute or rule. The term includes any document issued by an agency which is intended and used purely to assist a person to comply with the law, such as a guidance document."

**SECTION 2.** G.S. 150B-21.4 reads as rewritten:

**"§ 150B-21.4. Fiscal notes on rules.**

(a) State Funds. – Before an agency publishes in the North Carolina Register the proposed text of ~~adopts~~ a permanent rule change that would require the expenditure or distribution of funds subject to the State Budget Act, Chapter 143C of the General Statutes it must submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office of State Budget and Management and obtain certification from the Office of State Budget and Management that the funds that would be required by the proposed rule change are available. The agency shall submit the text of the proposed rule change, an analysis of the proposed rule change, and a fiscal note on the proposed rule change to the Office at the same time as the agency submits the notice of text for publication pursuant to G.S. 150B-21.2. The fiscal note must state the amount of funds that would be expended or distributed as a result of the proposed rule change and explain how the amount was computed. The Office of State Budget and Management must certify a proposed rule change if funds are available to cover the expenditure or distribution required by the proposed rule change.

(a1) DOT Analyses. – In addition to the requirements of subsection (a) of this section, any agency that adopts a rule affecting environmental permitting of Department of Transportation projects shall conduct an analysis to determine if the rule will result in an increased cost to the Department of Transportation. The analysis shall be conducted and submitted to the Board of Transportation ~~before when~~ the agency publishes the proposed text of the rule change in the North Carolina Register submits the notice of text for publication. The agency shall consider any recommendations offered by the Board of Transportation prior to adopting the rule. Once a rule subject to this subsection is adopted, the Board of Transportation may submit any objection to the rule it may have to the Rules Review Commission. If the Rules Review Commission receives an objection to a rule from the Board of Transportation no later than 5:00 P.M. of the day following the day the Commission approves the rule, then the rule shall only become effective as provided in G.S. 150B-21.3(b1).

(b) Local Funds. – Before an agency publishes in the North Carolina Register the proposed text of ~~adopts~~ a permanent rule change that would affect the expenditures or revenues of a unit of local government, it must submit the text of the proposed rule change and a fiscal note on the proposed rule change to the Office of State Budget and Management as provided by G.S. 150B-21.26, the Fiscal Research Division of the General Assembly, the North Carolina



Code as defined in ~~G.S. 105-130.2(1)~~ G.S. 105-130.2(1) or (ii) meets the definition of a private club set forth in G.S. 18B-1000(5).

...."

## **OUTDOOR ADVERTISING AMENDMENTS**

**SECTION 8.(a)** G.S. 136-133.1 reads as rewritten:

**"§ 136-133.1. Outdoor advertising vegetation cutting or removal.**

...  
(a1) Notwithstanding any law to the contrary, in order to promote the outdoor advertiser's right to be clearly viewed as set forth in G.S. 136-127, the Department of Transportation, at the request of a selective vegetation removal permittee, may approve plans for the cutting, thinning, pruning, or removal of vegetation outside of the cut or removal zone defined in subsection (a) of this section along acceleration or deceleration ramps so long as the view to the outdoor advertising sign will be improved and the total aggregate area of cutting or removal does not exceed the maximum allowed in subsection (a) of this section.

...  
(f) Tree branches within a highway right-of-way that encroach into the zone created by points A, ~~C, and DB~~, D, and E may be cut or pruned. Except as provided in subsection (g) of this section, no person, firm, or entity shall cut, trim, prune, or remove or otherwise cause to be cut, trimmed, pruned, or removed vegetation that is in front of, or adjacent to, outdoor advertising and within the limits of the highway right-of-way for the purpose of enhancing the visibility of outdoor advertising unless permitted to do so by the Department in accordance with this section, G.S. 136-93(b), 136-133.2, and 136-133.4.

...."

**SECTION 8.(b)** Article 11 of Chapter 136 of the General Statutes is amended by adding a new section to read:

**"§ 136-131.2. Modernization of outdoor advertising devices.**

No municipality, county, local or regional zoning authority, or other political subdivision shall, without the payment of just compensation as provided for in G.S. 136-131.1, regulate or prohibit the repair or reconstruction of any outdoor advertising for which there is in effect a valid permit issued by the Department of Transportation so long as the square footage of its advertising surface area is not increased. As used in this section, reconstruction includes the changing of an existing multipole outdoor advertising structure to a new monopole structure."

## **DISPOSITION OF DMH/DD/SAS RECORDS**

**SECTION 9.** The Division of Mental Health, Developmental Disabilities, and Substance Abuse Services shall amend its Records Retention and Disposition Schedule Manual to provide that if a Medicaid service has been eliminated by the State, the provider must retain records for three years after the last date of the service, unless a longer period is required by federal law. At the termination of that time period, records may be destroyed or transferred to a State agency or contractor identified by the Department of Health and Human Services.

## **STUDY OCCUPATIONAL LICENSING BOARD AGENCY**

**SECTION 10.(a)** The Joint Legislative Program Evaluation Oversight Committee shall include in the 2013-2014 Work Plan for the Program Evaluation Division of the General Assembly a study to evaluate the structure, organization, and operation of the various independent occupational licensing boards. For purposes of this act, the term "occupational licensing board" has the same meaning as defined in G.S. 93B-1. The Program Evaluation Division shall include the following within this study:

- (1) Consideration of the feasibility of establishing a single State agency to oversee the administration of all or some of the occupational licensing boards.
- (2) Whether greater efficiency and cost-effectiveness can be realized by combining the administrative functions of the boards while allowing the boards to continue performing the regulatory functions.
- (3) Whether the total number of boards should be reduced by combining and/or eliminating some boards.

**SECTION 10.(b)** The Program Evaluation Division shall submit its findings and recommendations from Section 10(a) of this act to the Joint Legislative Program Evaluation

- (2) Facility rental fees.
- (3) Educational programs.

...."

**SECTION 42.(b)** This section is effective when it becomes law.

**REPEAL THE MOUNTAIN RESOURCES PLANNING ACT**

**SECTION 43.** Chapter 153B of the General Statutes is repealed.

**PROVIDE AN EXEMPTION FROM LOCAL GOVERNMENT REQUIREMENTS REGARDING THE NUMBER OF ACRES FOR PROPERTY DEVELOPMENT FOR BROWNFIELDS DEVELOPMENTS**

**SECTION 44.(a)** G.S. 153A-349.4 reads as rewritten:

**"§ 153A-349.4. Developed property must contain certain number of acres; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application). Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years."

**SECTION 44.(b)** G.S. 160A-400.23 reads as rewritten:

**"§ 160A-400.23. Developed property must contain certain number of acres; permissible durations of agreements.**

(a) A local government may enter into a development agreement with a developer for the development of property as provided in this Part, provided the property contains 25 acres or more of developable property (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application). Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years.

(b) Notwithstanding the acreage requirements of subsection (a) of this section, a local government may enter into a development agreement with a developer for the development of property as provided in this Part for developable property of any size (exclusive of wetlands, mandatory buffers, unbuildable slopes, and other portions of the property which may be precluded from development at the time of application), if the developable property that would be subject to the development agreement is subject to an executed brownfields agreement pursuant to Part 5 of Article 9 of Chapter 130A of the General Statutes. Development agreements shall be of a term specified in the agreement, provided they may not be for a term exceeding 20 years."

**DIRECT THE DEPARTMENT OF TRANSPORTATION TO ADOPT RULES FOR SELECTIVE PRUNING WITHIN HIGHWAY RIGHTS-OF-WAY**

**SECTION 45.** The Department of Transportation shall adopt rules to authorize selective pruning within highway rights-of-way for vegetation that obstructs motorists' views of properties on which agritourism activities, as that term is defined in G.S. 99E-30, occur. The Department of Transportation is exempt from the provisions of G.S. 150B that require the preparation of fiscal notes for any rule proposed pursuant to this section.

**CLARIFY REQUIREMENTS FOR COMPLIANCE BOUNDARIES WITH RESPECT TO GROUNDWATER QUALITY STANDARDS**

orders, opinions, and awards based thereon as is possessed by the members of the Commission. ~~The deputies shall be subject to the State Personnel System. Deputies appointed pursuant to this subsection shall not be considered hearing officers within the meaning of G.S. 126-5(d)(7)."~~

**SECTION 60.(c)** This act becomes effective July 1, 2015.

**PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

**SECTION 61.(a)** If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

**SECTION 61.(b)** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26<sup>th</sup> day of July, 2013.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

s/ Pat McCrory  
Governor

Approved 10:53 a.m. this 23<sup>rd</sup> day of August, 2013