

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-446
HOUSE BILL 1481

AN ACT TO TRANSFER THE STATE ENERGY OFFICE FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE, TO TRANSFER THE RESIDENTIAL ENERGY CONSERVATION ASSISTANCE PROGRAM FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE, AND TO MAKE VARIOUS CHANGES TO THE ENERGY POLICY ACT OF 1975.

The General Assembly of North Carolina enacts:

SECTION 1.(a) The State Energy Office is transferred from the Department of Administration to the Department of Commerce. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 1.(b) G.S. 143-345.18(a) reads as rewritten:

"(a) For the purposes of this Part, the Department of ~~Administration~~Commerce, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency."

SECTION 1.(c) G.S. 143-64.17H reads as rewritten:

"§ 143-64.17H. Report on guaranteed energy savings contracts entered into by State governmental units.

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State Energy Office of the Department of ~~Administration~~Commerce within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract and shall evaluate whether expected savings have in fact been realized."

SECTION 1.(d) G.S. 143-64.17F reads as rewritten:

"§ 143-64.17F. State agencies to use contracts when feasible; rules; recommendations.

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.

(b) The Department of Administration, in consultation with the Department of Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of guaranteed energy savings contracts; (ii) establishing time periods for consideration of guaranteed energy savings contracts by the Office of State Budget and Management, the Office of the State Treasurer, and the Council of State, and (iii) setting measurements and verification criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer.



(c) The Department of Administration, and the Department of Commerce through the State Energy Office, may provide to the Council of State its recommendations concerning any energy savings contracts being considered."

SECTION 1.(e) G.S. 143-64.12(a) reads as rewritten:

"(a) The Department of ~~Administration~~ Commerce through the State Energy Office shall develop a comprehensive program to manage energy, water, and other utility use for State agencies and State institutions of higher learning and shall update this program annually. Each State agency and State institution of higher learning shall develop and implement a management plan that is consistent with the State's comprehensive program under this subsection to manage energy, water, and other utility use. The energy consumption per gross square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year. Each State agency and State institution of higher learning shall update its management plan annually and include strategies for supporting the energy consumption reduction requirements under this subsection. Each community college shall submit to the State Energy Office an annual written report of utility consumption and costs."

SECTION 1.(f) G.S. 143-64.11(2a) reads as rewritten:

"§ 143-64.11. Definitions.

For purposes of this Article:

...

(2a) "Energy Office" means the State Energy Office of the Department of ~~Administration~~ Commerce."

SECTION 1.(g) G.S. 143-58.4(a)(4) reads as rewritten:

"(a) As used in this section:

...

(4) "Department" means the Department of ~~Administration~~ Commerce."

SECTION 1.(h) G.S. 143-58.4(c) reads as rewritten:

"(c) Adopt Rules. – The Secretary of ~~Administration~~ Commerce shall adopt rules as necessary to implement this section."

SECTION 1.(i) The Residential Energy Conservation Assistance Program is transferred from the Department of Health and Human Services to the Energy Office of the Department of Commerce, which was transferred to that Department by Section 1 of this act. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

SECTION 2.(a) Part 34A of Article 3 of Chapter 143B of the General Statutes is recodified as Part 21 of Article 10 of Chapter 143B of the General Statutes, and G.S. 143B-216.72A through G.S. 143B-216.72C are recodified as G.S. 143B-472.121 through G.S. 143B-472.123.

SECTION 2.(b) G.S. 143B-216.72B, as recodified as G.S. 143B-472.122 by this section, reads as rewritten:

"§ 143B-472.122. Definitions.

The following definitions apply to this Part:

- (1) Applicant. – A member of the family residing in the dwelling unit, the owner, or designated agent of the owner of a dwelling unit applying for program services.
- (2) Department. – The Department of ~~Health and Human Services~~ Commerce.
- (3) Secretary. – The Secretary of ~~Health and Human Services~~ Commerce.
- (4) Subgrantee. – An entity managing a weatherization project that receives a federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006 edition) from this State or other entity named in the Notification of Grant Award and otherwise referred to as the grantee.

- (5) Weatherization. – The modification of homes and home heating and cooling systems to improve heating and cooling efficiency by caulking and weather stripping, as well as insulating ceilings, attics, walls, and floors."

SECTION 3. G.S. 113B-2 reads as rewritten:

"§ 113B-2. Creation of Energy Policy Council; purpose of Council.

(a) There is hereby created a council to advise and make recommendations on energy policy to the Governor and the General Assembly to be known as the Energy Policy Council which shall be located within the Department of ~~Administration~~Commerce.

(b) Except as otherwise provided in this Chapter, the powers, duties and functions of the Energy Policy Council shall be as prescribed by the Secretary of ~~Administration~~Commerce.

(c) The Energy Policy Council shall serve as the central energy policy planning body of the State and shall communicate and cooperate with federal, State, regional and local bodies and agencies to the end of effecting a coordinated energy policy."

SECTION 4. G.S. 113B-3 reads as rewritten:

"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.

(a) The Energy Policy Council shall consist of ~~18~~16 members to be appointed as follows:

- (1) Two members of the North Carolina House of Representatives to be appointed by the Speaker of the House of Representatives;
- (2) Two members of the North Carolina Senate to be appointed by the President Pro Tempore of the Senate;
- (3) ~~Nine~~Twelve public members who are citizens of the State of North Carolina to be appointed by the ~~Governor~~Governor. The Governor shall designate one of the public members as chair of the Council.
- (4) ~~The chairman of the North Carolina Utilities Commission, the Secretary of Environment and Natural Resources, the Commissioner of Agriculture, the Secretary of Commerce and the Secretary of Administration or their designees from their respective departments.~~

(b) ~~Initial appointments~~Appointments to the Energy Policy Council shall be made by ~~July 15, 1975, July 15, 2009,~~ and each such appointee shall serve until ~~January 31, 1977,~~ January 31, 2011. Thereafter, the appointed members of the General Assembly shall serve two-year terms, and the appointed public members shall serve four-year terms. A member of the Energy Policy Council shall continue to serve until his successor is duly appointed, but such holdover shall not affect the expiration date of such succeeding term.

(c) The public members of the Energy Policy Council shall have the following qualifications:

- (1) One ~~such~~ member shall be experienced in the electric power industry;
- (2) One ~~such~~ member shall be experienced in the natural gas industry;
- (2a) One member shall be experienced in energy policy matters;
- (3) One ~~such~~ member shall be experienced in ~~the petroleum marketing industry;~~ alternative fuels and biofuels;
- (4) One ~~such~~ member shall be experienced in ~~economic analysis of energy requirements;~~ energy efficient building design or construction;
- (5) One ~~such~~ member shall be experienced in environmental protection;
- (6) One ~~such~~ member shall be experienced in ~~industrial energy consumption;~~ who is engaged in a business providing renewable energy or other energy services;
- (7) One ~~such~~ member shall be knowledgeable of alternative and renewable sources of energy;

- (8) ~~One such member who, at the time of appointment, is a county commissioner; or elected municipal officer; provided, such the member's term on the Council shall expire immediately in the event that he or she vacates office as a county commissioner;~~commissioner or municipal officer;
- (9) ~~One such member who, at the time of appointment, is an elected municipal official; provided, such member's term on the Council shall expire immediately in the event that he or she vacates office as an elected municipal official.~~
- (10) One member shall be knowledgeable in the finance, business development, or technology development of energy-related business;
- (11) One member shall be experienced in low-income energy policy matters or low-income residential weatherization.
- (12) One member shall be experienced in the petroleum industry."

SECTION 5. G.S. 113B-4(a) reads as rewritten:

"(a) ~~On July 15, 1975, August 15, 2009, on January 31, 1977, January 31, 2011, and every four years thereafter, the Governor shall designate one of the members of the Energy Policy Council to serve as chairman~~appoint a chair of the Council."

SECTION 6. G.S. 113B-6 reads as rewritten:

"§ 113B-6. General duties and responsibilities.

The Energy Policy Council shall have the following general duties and responsibilities:

- (1) To develop and recommend to the Governor a comprehensive long-range State energy policy to achieve maximum effective management and use of present and future sources of energy, such policy to include but not be limited to ~~an energy efficiency program, an energy management plan, an emergency energy program, and an energy research and development program;~~energy efficiency, renewable and alternative sources of energy, research and development into alternative energy technologies, and improvements to the State's energy infrastructure and energy economy;
- (2) To conduct an ongoing assessment of the opportunities and constraints presented by various uses of all forms of energy and to encourage the efficient use of all such energy forms in a manner consistent with State energy policy;
- (3) To continually review and coordinate all State government research, education and management programs relating to energy matters and to continually educate and inform the general public regarding such energy matters;
- (4) To recommend to the Governor and to the General Assembly needed energy legislation and to recommend for implementation such modifications of energy policy, plans and programs as the Council considers necessary and desirable.
- (5) ~~To develop and administer the Low Income Residential Energy Program. Nothing in this subdivision shall be construed as obligating the General Assembly to appropriate funds for the Program or as entitling any person to services under the Program."~~

SECTION 7. G.S. 113B-10 is repealed.

SECTION 8. G.S. 113B-11 reads as rewritten:

"§ 113B-11. Powers and authority.

(a) The Energy Policy Council is authorized to secure directly from any officer, office, department, commission, board, bureau, institution and other agency of the State and its political subdivisions any information it deems necessary to carry out its functions; and all such

officers and agencies shall cooperate with the Council and, to the extent permitted by law, furnish such information to the Council as it may request.

(b) To assure the adequate development of relevant energy information, ~~as provided in G.S. 113B-10,~~ the Council may require all energy producers and major energy consumers, as determined by the Council, to file such reports and forecasts and at such dates as the Council may request; provided, however, that the Council may request only specific energy-related information which it deems necessary to carry out its duties as defined in Articles 1 and 2 of this Chapter.

(c) The Council shall have authority to apply for and utilize grants, contributions and appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter, provided, however, that all such applications and requests are made through and administered by the Department of ~~Administration~~Commerce.

(d) The Council shall have authority to request said Department to allocate and dispense any funds made available to the Council for energy research and related work efforts in such a manner as the Council desires subject only to the stipulation that said funds be reasonably used in furtherance of the purposes of this Article.

(e) The Department of ~~Administration~~Commerce shall provide the staffing capability to the Energy Policy Council so as to fully and effectively develop recommendations for a comprehensive State energy policy as contained in the provisions of this Article. The Utilities Commission is hereby authorized to make its staff available to the Council to assist in the development of a State energy policy."

SECTION 9. G.S. 113B-12(b) reads as rewritten:

"(b) The report shall include, but not be limited to, the following:

- (1) An overview of statewide growth and development as they relate to future requirements for energy, including patterns of urban and metropolitan expansion, shifts in transportation modes, modifications in building types and design, and other trends and factors which, as determined by the Council, will significantly affect energy needs;
- (2) The level of statewide and multi-county regional energy demand for a five-, 10- and 20-year forecast period which, in the judgment of the Council, can reasonably be met, with proposals as to possible energy supply sources;
- (3) An assessment of growth trends in energy consumption and production and an identification of potential adverse social, economic, or environmental impacts which might be imposed by continuation of the present trends, including energy costs to consumers, significant increases in air, water, and other forms of pollution, threats to public health and safety, and loss of scenic and natural areas;
- (4) An analysis ~~and evaluation of the means by which the projected annual growth rate of energy demand may be reduced, together with an estimate of the amount of such reduction to be obtained by each of the means analyzed and evaluated;~~of the role of energy efficiency, renewable energy, improvements to the State's energy infrastructure, and other means in meeting the State's current and projected energy demand;
- (5) ~~The status of the Council's ongoing energy research and development program and an assessment of the energy research and planning efforts carried out in North Carolina;~~
- (6) Recommendations to the Governor and the General Assembly for additional administrative and legislative actions on energy matters;
- (7) A summary of the Council's activities since its inception, a description of major plans developed by the Council, an assessment of plan

implementation, and a review of Council plans and programs for the coming biennium."

SECTION 10. The Secretary of Commerce and the Chair of the Utilities Commission shall jointly prepare a report examining the respective duties and functions of the Utilities Commission and the Energy Policy Council and shall recommend changes to address any duplicative activities and responsibilities. This report shall be submitted to the Governor no later than January 31, 2010.

SECTION 11. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 28th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:30 a.m. this 7th day of August, 2009