

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 951

Short Title: DEHNR Study/Environmental Regulation.

(Public)

Sponsors: Senator Gulley.

Referred to: Agriculture/Environment/Natural Resources

May 2, 1995

A BILL TO BE ENTITLED

**AN ACT TO DIRECT THE DEPARTMENT OF ENVIRONMENT, HEALTH, AND
NATURAL RESOURCES TO STUDY WAYS TO SIMPLIFY AND IMPROVE
ENVIRONMENTAL REGULATION THROUGH COORDINATION,
COMPLIANCE ASSISTANCE, AND INCENTIVES FOR ENHANCED SELF-
REGULATION AND TO STUDY WAYS TO STREAMLINE THE PERMIT
PROCESS.**

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds:

- (1) Over the past two decades, environmental regulations and permitting processes have grown increasingly complex, uncoordinated, and difficult to understand.
- (2) Simpler, more predictable, more consistent, and better understood environmental regulations and permitting processes would enhance environmental protection by improving the public's and the regulated community's awareness of the scope and limits of environmental laws.
- (3) Direct compliance assistance to potential permittees and to citizens at large who are concerned about environmental permits would improve environmental permitting through higher quality permit applications and more informed comments on those applications.

1 (4) Incentives to regulate persons to prevent pollution and to reduce and
2 self-regulate any remaining emissions of pollutants can reduce the need
3 for and complexity of permits.

4 (5) Reforms in the environmental permit process should not be hindered by
5 undue caution arising out of negligence actions brought against
6 individual permit writers and reviewers under the Tort Claims Act, such
7 as Haas v. Caldwell Systems, 98 N.C. App. 679 (1990), rev. denied, 327
8 N.C. 428 (1990). Tort claims arising from environmental permits, such
9 as claims for "negligent permitting", are expressly disavowed.

10 Sec. 2. The Department of Environment, Health, and Natural Resources shall
11 conduct a study of its mission, authority, duties, structure, and permit process related to
12 environmental programs and shall consider specific actions being undertaken by the
13 Department and further proposals for coordinating and streamlining environmental
14 regulatory and permit processes, which actions and proposals shall include:

15 (1) General changes to improve customer service and accountability:

- 16 a. Ways to manage and train Department employees to provide
17 better customer service; and
18 b. Ways to improve the efficiency, effectiveness, accountability,
19 flexibility, and fairness of the State environmental regulatory and
20 permit processes.

21 (2) Structural and organizational changes to improve performance and
22 effectiveness of environmental programs.

23 (3) Narrowing the scope of permitted activities:

- 24 a. Any activities that presently require permits that can be regulated
25 through some more efficient means, such as registration or not at
26 all without undue risk to public health and the environment; and
27 b. Eliminating redundant and nonsubstantive activities whose
28 environmental and health effects are known to be insignificant.

29 (4) Alternatives to individualized permitting:

- 30 a. Issuing temporary permits to businesses installing new
31 equipment that will facilitate implementation of pollution
32 prevention; and
33 b. Issuing temporary or other fast-track permits to facilitate
34 remediation.

35 (5) Improvements in processing for individualized permitting:

- 36 a. Eliminating process bottlenecks that delay the processing of
37 permits;
38 b. Prioritizing applications in a consistent and efficient manner;
39 c. Eliminating unnecessary hearings; and
40 d. Rewarding persons who implement pollution prevention
41 programs and comprehensive self-auditing or other quality
42 environmental management programs through recognition and
43 priority in permit processing.

- 1 (6) Improvements in applicants' and affected parties' understanding of the
2 permit system:
- 3 a. Providing applicants with checklists for completing applications;
4 b. Advising permit applicants and affected parties of the expected
5 timetable for processing permit applications;
6 c. Developing a consistent process and forms that minimize
7 redundant information requests for environmental permit
8 applications across the various divisions and commissions within
9 the Department;
10 d. Providing improved and more consistent notice of permit
11 applications and decisions;
12 e. Improving Department permit and compliance information
13 systems to allow permit applicants and interested persons quick
14 and simple access to information about permit applications and
15 permitted facilities; and
16 f. Developing methods for providing direct compliance assistance,
17 such as assistance in determining which permit requirements
18 apply to particular facilities and assistance in preparing the
19 permit applications or commenting on permit applications.
- 20 (7) Improvements in fee structures and fee handling:
- 21 a. Revising current fee structures for fairness and consistency and
22 to balance the costs of program administration and the impact of
23 fees on regulated business; and
24 b. Demonstrating accountability on expenditure of receipts.

25 The Department shall report its findings regarding specific actions being
26 undertaken, its recommendations for further proposals for coordinating and streamlining
27 the environmental regulatory and permit processes, and its progress toward these ends to
28 the Environmental Review Commission no later than January 1, 1996. The Department
29 shall participate in developing any necessary legislative proposals and proposals for rule
30 changes to implement the report's recommendations.

31 Sec. 3. G.S. 143-291 is amended by adding a new subsection to read:

32 "(c) The State is not liable under this Article for any acts or omissions of its
33 employees in the process of reviewing, granting, or denying environmental permit
34 applications."

35 Sec. 4. There is appropriated from the General Fund to the Department of
36 Environment, Health, and Natural Resources the sum of fifty thousand dollars (\$50,000)
37 for the 1995-96 fiscal year to implement this act.

38 Sec. 5. This act becomes effective July 1, 1995.