

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

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**HOUSE BILL 1611**

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

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Sponsors: Representative McElraft.

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

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April 19, 2007

A BILL TO BE ENTITLED

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

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  
28 percent (75%) of the total geographic area of the county. The  
29 Commission shall prepare a fiscal note for each county subject to this

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

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

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

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

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

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

- 38           1.     Discharges stormwater that has the potential to adversely  
39           impact water quality. An adverse impact on water quality  
40           includes any activity that causes or contributes to a  
41           violation of water quality standards, including, but not  
42           limited to, any activity that impairs designated uses or  
43           that has a significant biological or habitat impact.



- 1                   5.     The municipal separate storm sewer system (MS4)  
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                   quality protection programs. To determine the  
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  
25                management within 18 months of the date of notification."

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