GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SENATE BILL 605

Short Title: North Carolina Farm Act of 2021. (Public)

Sponsors: Senators B. Jackson, Sanderson, and Edwards (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 7, 2021

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS CONCERNING
AGRICULTURE AND FORESTRY.

The General Assembly of North Carolina enacts:

VOLUNTARY AGRICULTURAL DISTRICT TECHNICAL CHANGES

SECTION 1. Article 61 of Chapter 106 of the General Statutes reads as rewritten:

"Article 61.

"Agricultural Development and Preservation of Farmland.


"§ 106-737. Qualifying farmland.

In order for farmland to qualify for inclusion in a voluntary agricultural district or an enhanced voluntary agricultural district under Part 1 or Part 2 of this Article, it must be real property that:

(1) Is engaged in agriculture as that word is defined in G.S. 106-581.1, is used for bona fide farm purposes, as that term is defined in G.S. 106-743.4(a) and G.S. 160D-903.

(2) Repealed by Session Laws 2005-390, s. 11 effective September 13, 2005.

(3) Is managed in accordance with the Soil Conservation Service defined erosion control practices that are addressed to highly erodable land; and

(4) Is the subject of a conservation agreement, as defined in G.S. 121-35, between the county/local government administering the voluntary agricultural district program and the owner of such land that prohibits nonfarm use or development of such land for a period of at least 10 years, except for the creation of not more than three lots that meet applicable county and municipal zoning and subdivision regulations. The form of the conservation agreement shall be approved by the agricultural advisory board created under G.S. 106-739.

"§ 106-737.1. Revocation of conservation agreement.

By written notice to the county/local government administering the voluntary agricultural district program, the landowner may revoke this conservation agreement. Such revocation shall result in loss of qualifying farm status.

"§ 106-738. Voluntary agricultural districts.

(a) An ordinance adopted under this Part shall provide:
(1) For the establishment of voluntary agricultural districts consisting initially of at least the number of contiguous acres of agricultural land, and forestland or horticultural land that is part of a qualifying farm or the number of qualifying farms deemed appropriate by the governing board of the county or city adopting the ordinance, upon the execution of a conservation agreement as provided in G.S. 106-737(4).

(2) For the formation of such districts upon the execution by the owners of the requisite acreage of an agreement to sustain agriculture in the district;

(3) That the form of this agreement must be reviewed and approved by an agricultural advisory board established under G.S. 106-739 or some other county board or official;

(4) That each such district have a representative on the agricultural advisory board established under G.S. 106-739.

(5) The minimum size, including acreage; number of tracts; and appropriate proximity of multiple tracts of agricultural land, forestland, or horticultural land that may comprise a voluntary agricultural district.

(b) The purpose of such agricultural districts shall be to increase identity and pride in the agricultural community and its way of life and to increase protection from nuisance suits—decrease the likelihood of legal disputes, such as nuisance actions between farm owners and their neighbors, and other negative impacts on properly managed farms. The county or city that adopted an ordinance under this Part may take such action as it deems appropriate to encourage the formation of such districts and to further their purposes and objectives.

(c) A county ordinance adopted pursuant to this Part is effective within the unincorporated areas of the county. A city ordinance adopted pursuant to this Part is effective within the corporate limits of the city. A city may amend its ordinances in accordance with G.S. 160A-383.2 with regard to agricultural districts within its planning jurisdiction.

"§ 106-739. Agricultural advisory board.

(a) An ordinance adopted under this Part or Part 3 of this Article shall provide for the establishment of an agricultural advisory board, organized and appointed by the board of county commissioners or the city council adopting the ordinance. The county or city that adopted the ordinance may confer upon this advisory board authority to:

(1) Review and make recommendations or decisions concerning the establishment and modification of agricultural districts. The board of county commissioners or the city council may make decisions regarding the establishment and modification of voluntary agricultural districts or may delegate that authority to the agricultural advisory board. If the authority is delegated to the agricultural advisory board, the agricultural advisory board’s decisions shall be appealable to the board of county commissioners or city council by an owner of land that has been denied enrollment in a voluntary agricultural district or has been removed from a voluntary agricultural district by the agricultural advisory board.

(1a) Execute agreements with landowners necessary for enrollment of land in a voluntary agricultural district.

(2) Review and make recommendations concerning any ordinance or amendment adopted or proposed for adoption under this Part or Part 3 of this Article.

(3) Hold public hearings on public projects likely to have an impact on agricultural operations, particularly if such projects involve condemnation of all or part of any qualifying farm.
(4) Advise the governing board of the county or city that adopted the ordinance on projects, programs, or issues affecting the agricultural economy or way of life within the county.

(5) Perform other related tasks or duties assigned by the governing board of the county or city that adopted the ordinance.

(b) The members of the agricultural advisory board shall be chosen to provide the broadest possible representation of the geographical regions of the local government and to represent, to the extent possible, all segments of agricultural production existing within the local government. A majority of the members of the agricultural advisory board shall be actively engaged in agriculture.

c) The agricultural advisory board may, at the discretion of the board of county commissioners or the city council, utilize an existing local government agency for the purpose of administration, recordkeeping, and other related tasks or duties.

"§ 106-741. Record notice of proximity to farmlands.

(a) All counties shall require that land records include some form of notice reasonably calculated to alert a person researching the title of a particular tract that such tract is located within one-half mile of a poultry, swine, or dairy qualifying farm or within 600 feet of any other qualifying farm or within one-half mile of a voluntary agricultural district or the property line of any tract of land enrolled in a voluntary agricultural district.

(b) In no event shall the county or any of its officers, employees, or agents be held liable in damages for any misfeasance, malfeasance, or nonfeasance occurring in good faith in connection with the duties or obligations imposed by any ordinance adopted under subsection (a).

c) In no event shall any cause of action arise out of the failure of a person researching the title of a particular tract to report to any person the proximity of the tract to a qualifying farm or voluntary agricultural district as defined in this Article.

(d) In no event shall any cause of action arise out of the failure of a person licensed under Chapters 93A or 93E of the General Statutes for failure to report to any person the proximity of a tract to a qualifying farm or voluntary agricultural district as defined in this Article.

"§ 106-743. Local ordinances.

A county or a city adopting an ordinance under this Part or Part 3 of this Article may consult with the North Carolina Commissioner of Agriculture or his staff before adoption, and shall record the ordinance with the Commissioner's office after adoption. Thereafter, the county or city shall submit to the Commissioner at least once a year, a written report including the status, progress, number of enrolled farms and acres, and activities of its farmland preservation program under this Part or Part 3 of this Article.


"§ 106-743.1. Enhanced voluntary agricultural districts.

(a) A county or a municipality may adopt an ordinance establishing an enhanced voluntary agricultural district. An ordinance adopted pursuant to this Part shall provide:

(1) For the establishment of an enhanced voluntary agricultural district that initially consists of at least the number of contiguous acres of agricultural land, and forestland and horticultural land that is part of a qualifying farm under G.S. 106-737 or the number of qualifying farms deemed appropriate by the governing board of the county or city adopting the ordinance.

(2) For the formation of the enhanced voluntary agricultural district upon the execution of a conservation agreement, as defined in G.S. 121-35, that meets the condition set forth in G.S. 106-743.2 by the landowners of the requisite acreage to sustain agriculture in the enhanced voluntary agricultural district.
(3) That the form of the agreement under subdivision (2) of this subsection be reviewed and approved by an agricultural advisory board established under G.S. 106-739, or other governing board of the county or city that adopted the ordinance.

(4) That each enhanced voluntary agricultural district have a representative on the agricultural advisory board established under G.S. 106-739.

(b) The purpose of establishing an enhanced voluntary agricultural district is to allow a county or a city to provide additional benefits to farmland beyond that available in a voluntary agricultural district established under Part 2 of this Article, when the owner of the farmland agrees to the condition imposed under G.S. 106-743.2. The county or city that adopted the ordinance may take any action it deems appropriate to encourage the formation of these districts and to further their purposes and objectives.

c) A county ordinance adopted pursuant to this Part is effective within the unincorporated areas of the county. A city ordinance adopted pursuant to this Part is effective within the corporate limits of the city. A city may amend its ordinances in accordance with G.S. 160A-383.2 with regard to agricultural districts within its planning jurisdiction.

d) A county or city ordinance adopted pursuant to this Part may be adopted simultaneously with the creation of a voluntary agricultural district pursuant to G.S. 106-738.

ALLOW MAGISTRATES TO WAIVE TRIALS FOR STATE FOREST RULE OFFENSES

SECTION 2.(a) G.S. 7A-273 reads as rewritten:

"§ 7A-273. Powers of magistrates in infractions or criminal actions.

In criminal actions or infractions, any magistrate has power:

…

(2) In misdemeanor or infraction cases involving alcohol offenses under Chapter 18B of the General Statutes, traffic offenses, hunting, fishing, State park and recreation area rule offenses under Chapters 113 and 143B of the General Statutes, State forest rule offenses under Articles 74 and 75 of Chapter 106 of the General Statutes, boating offenses under Chapter 75A of the General Statutes, open burning offenses under Article 78 of Chapter 106 of the General Statutes, and littering offenses under G.S. 14-399(c) and G.S. 14-399(c1), to accept written appearances, waivers of trial or hearing and pleas of guilty or admissions of responsibility, in accordance with the schedule of offenses and fines or penalties promulgated by the Conference of Chief District Judges pursuant to G.S. 7A-148, and in such cases, to enter judgment and collect the fines or penalties and costs;

…"

SECTION 2.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

EXEMPT CERTAIN FIRES FROM OPEN BURNING LAWS

SECTION 3.(a) G.S. 106-950 is amended by adding a new subsection to read:

"(a2) Except in cases where the Commissioner has prohibited all open burning during periods of hazardous forest fire conditions or during air pollution episodes declared pursuant to Article 21B of Chapter 143 of the General Statutes, this Article does not apply to any fires started, or caused to be started, for cooking, warming, or ceremonial events, if the fire is confined (i) within an enclosure from which burning material may not escape or (ii) within a protected area upon which a watch is being maintained and which is provided with adequate fire protection equipment."

SECTION 3.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

FOREST SERVICE OVERTIME MODIFICATION

SECTION 4.(a) G.S. 106-903 reads as rewritten:

"§ 106-903. Overtime compensation for forest fire fighting.

The Department shall, within funds appropriated to the Department, provide either monetary overtime compensation or compensatory leave at an hour-for-hour rate, at its discretion, to the professional employees of the North Carolina Forest Service who are exempt from the Fair Labor Standards Act and involved in fighting forest fires for overtime earned while conducting fire suppression duties as defined in G.S. 106-955. If the Department provides compensatory leave for overtime earned, it shall be provided in a manner consistent with the State's general compensatory time policy for exempt employees established by the Office of State Human Resources."

SECTION 4.(b) This section is effective when it becomes law and applies to overtime earned on or after that date.

INCREASE PUNISHMENT FOR TIMBER LARCENY AND INCREASE CIVIL PENALTIES FOR DAMAGING TIMBER OR AGRICULTURAL COMMODITIES

SECTION 5.(a) G.S. 14-135 reads as rewritten:

"§ 14-135. Cutting, injuring, or removing another's larceny of timber.

(a) Offense. – Except as otherwise provided in subsection (b) of this section, a person commits the offense of larceny of timber if the person does any of the following:

(1) If any person not being the bona fide owner thereof, shall knowingly and willfully cut down, injure or remove any standing, growing or fallen tree or log off the property of another, the person shall be punished the same as in G.S. 14-72. Knowingly and willfully cuts down, injures, or removes any timber owned by another person, without the consent of the owner of the land or the owner of the timber, or without a lawful easement running with the land.

(2) Buys timber directly from the owner of the timber and fails to make payment in full to the owner by (i) the date specified in the written timber sales agreement or (ii) if there is no such agreement, 60 days from the date that the buyer removes the timber from the property.

(b) Exceptions. – The following are exceptions to the offense set forth in subsection (a) of this section:

(1) A person is not guilty of an offense under subdivision (1) of subsection (a) of this section if the person is an employee or agent of an electric power supplier, as defined in G.S. 62-133.8, and either of the following conditions is met:

a. The person believed in good faith that consent of the owner had been obtained prior to cutting down, injuring, or removing the timber.

b. The person believed in good faith that the cutting down, injuring, or removing of the timber was permitted by a utility easement or was necessary to remove a tree hazard. For purposes of this sub-subdivision, the term "tree hazard" includes a dead or dying tree, dead parts of a living tree, or an unstable living tree that is within striking distance of an electric transmission line, electric distribution line, or electric equipment and constitutes a hazard to the line or equipment in the event of a tree failure.

(2) A person is not guilty of an offense under subdivision (2) of subsection (a) of this section if either of the following conditions is met:
The person remitted payment in full within the time period set in subdivision (2) of subsection (a) of this section to a person he or she believed in good faith to be the rightful owner of the timber.

The person remitted payment in full to the owner of the timber within the 10-day period set forth in subsection (c) of this section.

(c) Prima Facie Evidence. – An owner of timber who does not receive payment in full within the time period set in subdivision (2) of subsection (a) of this section may notify the timber buyer in writing of the owner’s demand for payment at the timber buyer's last known address by certified mail or by personal delivery. The timber buyer's failure to make payment in full within 10 days after the mailing or personal delivery authorized under this subsection shall constitute prima facie evidence of the timber buyer's intent to commit an offense under subdivision (2) of subsection (a) of this section.

(d) Penalty; Restitution. – A person who commits an offense under subsection (a) of this section is guilty of a Class G felony. Additionally, a defendant convicted of an offense under subsection (a) of this section shall be ordered to make restitution to the timber owner in an amount equal to either of the following:

(1) Three times the value of the timber cut down, injured, or removed in violation of subdivision (1) of subsection (a) of this section.

(2) Three times the value of the timber bought but not paid for in violation of subdivision (2) of subsection (a) of this section.

Restitution shall also include the cost incurred by the owner to determine the value of the timber. For purposes of subdivisions (1) and (2) of this subsection, "value of the timber" shall be based on the stumpage rate of the timber.

(e) Civil Remedies. – Nothing in this section shall affect any civil remedies available for a violation of subsection (a) of this section.

SECTION 5.(b) G.S. 1-539.1 reads as rewritten:

"§ 1-539.1. Damages for unlawful cutting, removal or burning of timber; misrepresentation of property lines.

(a) Any person, firm or corporation not being the bona fide owner thereof or agent of the owner who shall without the consent and permission of the bona fide owner enter upon the land of another and injure, cut or remove any valuable wood, timber, shrub or tree therefrom, shall be liable to the owner of said land for double [triple] the value of such wood, timber, shrubs or trees so injured, cut or removed.

(b) If any person, firm or corporation shall willfully and intentionally set fire, or cause to be set on fire, in any manner whatever, any valuable wood, timber or trees on the lands of another, such person, firm or corporation shall be liable to the owner of said lands for double [triple] the value of such wood, timber or trees damaged or destroyed thereby.

..."

SECTION 5.(c) G.S. 1-539.2B reads as rewritten:

"§ 1-539.2B. Double [Triple] damages for injury to agricultural commodities or production systems; define value of agricultural commodities grown for educational, testing, or research purposes.

(a) Any person who unlawfully and willfully injures or destroys any other person's agricultural commodities or production system is liable to the owner for double [triple] the value of the commodities or production system injured or destroyed.

..."

SECTION 5.(d) Subsection (a) of this section becomes effective December 1, 2021, and applies to offenses committed on or after that date. Subsections (b) and (c) of this section become effective December 1, 2021, and apply to civil actions filed on or after that date.
REQUIRE TIMBER BUYERS AND TIMBER OPERATORS TO PROVIDE A WOOD LOAD TICKET TO PURCHASERS OF CERTAIN WOOD PRODUCTS

SECTION 6.(a) Article 22 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-135.1. Wood load tickets required for certain wood product sales; exceptions; penalties.
(a) Definition. – For purposes of this section, the term "wood product" means trees, timber, wood, or any combination thereof.
(b) Requirement. – Except as provided in this section, whenever a timber buyer or timber operator purchases wood product by the load directly from a timber grower or seller and the load is sold by weight, cord, or measure of board feet, the timber buyer or operator shall furnish the timber grower or seller, within 30 days of the completion of the wood product harvest, a separate, true, and accurate wood load ticket for each load of wood product removed from the timber grower's or seller's property. At a minimum, each wood load ticket shall include all of the following information provided by the timber grower or seller who sold the wood product:
(1) The name of the timber grower or seller.
(2) The county from which the wood product was severed.
(3) The amount of wood product severed.
(4) The date the wood product was delivered to the timber buyer or timber operator.
(c) Applicability. – The provisions of this section do not apply to the following:
(1) The sale of wood for firewood only.
(2) A landowner harvesting and processing their own timber.
(3) Bulk or lump-sum sales for an agreed total price for all timber purchased and sold in one transaction.
(d) Punishment. – Any person who violates this section is guilty of a Class 2 misdemeanor."

SECTION 6.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.

EXPAND THE LAWS ENFORCED BY DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES LAW ENFORCEMENT OFFICERS

SECTION 7.(a) G.S. 106-897 reads as rewritten:

"§ 106-897. Forest laws defined.
The forest laws consist of:
(1) G.S. 14-136-G.S. 14-135 to G.S. 14-140;
...
"§ 106-92.8. Tonnage fees: reporting system.
For the purpose of defraying expenses connected with the registration, inspection and analysis of the materials coming under this Article, each manufacturer or registrant shall pay to the Department of Agriculture and Consumer Services tonnage fees in addition to registration fees as follows: for agricultural liming material, fifty cents (50¢) per ton; for landplaster, fifty cents (50¢) per ton; excepting that these fees shall not apply to materials which are sold to fertilizer manufacturers for the sole purpose for use in the manufacture of fertilizer or to materials when sold in packages of 10 pounds or less.

SECTION 7.(b) This section becomes effective December 1, 2021, and applies to offenses committed on or after that date.
Any manufacturer, importer, jobber, firm, corporation or person who distributes materials
coming under this Article in this State shall make application for a permit to report the materials
sold and pay the tonnage fees as set forth in this section.

The Commissioner of Agriculture shall grant such permits on the following conditions: The
applicant's agreement that he will keep such records as may be necessary to indicate accurately
the tonnage of liming materials, etc., sold in the State and his the applicant's agreement for the
Commissioner or his the Commissioner's authorized representative to examine such records to
verify the tonnage statement. If the records are available electronically, the electronic records
shall be made available to the Commissioner or the Commissioner's authorized representative.
The registrant shall report quarterly and pay the applicable tonnage fees quarterly, on or before
the tenth day of October, January, April, and July of each year. The report and payment shall
cover the tonnage of liming materials, etc., sold during the preceding quarter. The report shall be
on forms furnished by the Commissioner. If the report is not filed and the tonnage fees paid by
the last day of the month in which it is due, or if the report be false, the amount due shall be
penalty of ten percent (10%) which shall be added to the tonnage fees due. If the report is not
filed and the tonnage fees paid within 60 days of the date due, or if the report or tonnage be false,
the Commissioner may revoke the permit and cancel the registration."

SECTION 8(b)  G.S. 106-277.12 reads as rewritten:


All persons transporting or delivering for transportation, selling, offering or exposing for sale
agricultural or vegetable seeds if their name appears on the label shall keep for a period of two
years a file sample and a complete record of such seed, including invoices showing lot number,
kind and variety, origin, germination, purity, treatment, and the labeling of each lot. The
Commissioner or his the Commissioner's duly authorized agents shall have the right to inspect
such records in connection with the administration of this Article at any time during customary
business hours. If the records are available electronically, the electronic records shall be made
available to the Commissioner or the Commissioner's authorized representative."

SECTION 8(c)  G.S. 106-284.40(c)(2) reads as rewritten:

"(2)  Keep such records as may be necessary or required by the Commissioner to
indicate accurately the tonnage of commercial feed distributed in this State,
and the Commissioner or his the Commissioner's duly designated agent shall
have the right to examine such records during normal business hours, to verify
statements of tonnage. If the records are available electronically, the electronic
records shall be made available to the Commissioner or the Commissioner's
authorized representative. Failure to make an accurate statement of tonnage
or to pay the inspection fee or comply as provided herein shall constitute
sufficient cause for the cancellation of all registrations on file for the
distributor."

SECTION 8(d)  G.S. 106-671(b) reads as rewritten:

"(b)  Reporting System. – Each manufacturer, importer, jobber, firm, corporation or person
who distributes commercial fertilizers in this State shall make application to the Commissioner
for a permit to report the tonnage of commercial fertilizer sold and shall pay to the North Carolina
Department of Agriculture and Consumer Services an inspection fee of fifty cents (50¢) per ton.
The Commissioner is authorized to require each such distributor to keep such records as may be
necessary to indicate accurately the tonnage of commercial fertilizers sold in the State, and as are
satisfactory to the Commissioner. Such records shall be available to the Commissioner, or his the
Commissioner's duly authorized representative, at any and all reasonable hours for the purpose
of making such examination as is necessary to verify the tonnage statement and the inspection
fees paid. If the records are available electronically, the electronic records shall be made available
to the Commissioner or the Commissioner's authorized representative. Each registrant shall
report monthly the tonnage sold to non-registrants on forms furnished by the Commissioner.
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Such reports shall be made and inspection fees shall be due and payable monthly on the fifteenth of each month covering the tonnage and kind of commercial fertilizers sold during the past month. If the report is not filed and the inspection fee paid by the last day of the month it is due, the amount due shall bear a penalty of ten percent (10%), which shall be added to the inspection fee due. If the report is not filed and the inspection fee paid within 60 days of the date due, or if the report or tonnage be false, the Commissioner may revoke the permit."

TOBACCO TRUST FUND COMMISSION ADMIN EXPENSES

SECTION 9. G.S. 143-717(i) reads as rewritten:

"(i) Limit on Operating and Administrative Expenses. – All administrative expenses of the Commission shall be paid from the Fund. No more than three hundred fifty thousand dollars ($350,000) three hundred seventy-five thousand dollars ($375,000) may be used each fiscal year for administrative and operating expenses of the Commission and its staff, provided that the Commission may annually adjust the administrative expense cap imposed by this subsection, so long as that any cap increase does not exceed the amount necessary to provide for statewide salary and benefit adjustments enacted by the General Assembly."

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES RESPONSIBLE FOR THE DESIGN, CONSTRUCTION, OR RENOVATION OF THE BUILDINGS, UTILITIES, AND OTHER PROPERTY DEVELOPMENTS OF THE DEPARTMENT

SECTION 10.(a) G.S. 143-135.26 reads as rewritten:


The State Building Commission shall have the following powers and duties with regard to the State’s capital facilities development and management program:

(1) To adopt rules establishing standard procedures and criteria to assure that the designer selected for each State capital improvement project, the consultant selected for planning and studies of an architectural and engineering nature associated with a capital improvement project or a future capital improvement project and a construction manager at risk selected for each capital improvement project has the qualifications and experience necessary for that capital improvement project or the proposed planning or study project. The rules shall provide that the State Building Commission, after consulting with the funded agency, is responsible and accountable for the final selection of the designer, consultant or construction manager at risk except when the Department of Agriculture and Consumer Services, the General Assembly, or The University of North Carolina is the funded agency. When the Department of Agriculture and Consumer Services is the funded agency, the Board of Agriculture is responsible and accountable for the final selection of the designer, consultant or construction manager at risk. When the General Assembly is the funded agency, the Legislative Services Commission is responsible and accountable for the final selection of the designer, consultant, or construction manager at risk. When the University of North Carolina is the funded agency, it shall be subject to the rules adopted hereunder, except it is responsible and accountable for the final selection of the designer, consultant, or construction manager at risk. All designers and consultants shall be selected within 60 days of the date funds are appropriated for a project by the General Assembly or the date of project authorization by the Director of the Budget; provided, however, the State Building Commission may grant an exception to this requirement upon written request of the funded agency if (i) no site was selected for the project before the funds were appropriated or (ii) funds were appropriated for advance
planning only; provided, further, the Director of the Budget, after consultation with the State Construction Office, may waive the 60-day requirement for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects. The Director of the Budget also may, after consultation with the State Construction Office, schedule the availability of design and construction funds for capital improvement projects for the purpose of minimizing project costs through increased competition and improvements in the market availability of qualified contractors to bid on State capital improvement projects.

The State Building Commission shall submit a written report to the Joint Legislative Commission on Governmental Operations on the Commission's selection of a designer for a project within 30 days of selecting the designer.

SECTION 10.(b) Part 3 of Article 1 of Chapter 106 of the General Statutes is amended by adding a new section to read:


(a) Notwithstanding G.S. 143-341(3), the Board of Agriculture shall, with respect to the design, construction, or renovation of buildings, utilities, and other property developments of the Department of Agriculture and Consumer Services requiring the estimated expenditure of public funds of two million dollars ($2,000,000) or less, do all of the following:

(1) Conduct the fee negotiations for all design contracts and supervise the letting of all construction and design contracts.

(2) Develop procedures governing the responsibilities of the Department of Agriculture and Consumer Services to perform the duties of the Department of Administration and the Director or Office of State Construction under G.S. 133-1.1(d) and G.S. 143-341(3).

(3) Develop procedures and reasonable limitations governing the use of open-end design agreements, subject to G.S. 143-64.34 and the approval of the State Building Commission.

(4) Use existing plans and specifications for construction projects, where feasible. Prior to designing a project, the Board of Agriculture shall consult with the Department of Administration on the availability of existing plans and specifications and the feasibility of using them for a project.

(b) The Department of Agriculture and Consumer Services shall use the standard contracts for design and construction currently in use for State capital improvement projects by the Office of State Construction of the Department of Administration.

(c) A contract may not be divided for the purpose of evading the monetary limit under this section.

(d) The Board of Agriculture shall annually report to the State Building Commission the following:

(1) A list of projects governed by this section.

(2) The estimated cost of each project along with the actual cost.

(3) The name of each person awarded a contract under this section.

(4) Whether the person or business awarded a contract under this section meets the definition of "minority business" or "minority person" as defined in G.S. 143-128.2(g).”

SECTION 10.(c) This section becomes effective July 1, 2021, and applies to contracts executed on or after that date.
CREATE A NEW GENERAL PERMIT FOR FARMS WITH FARM DIGESTER SYSTEMS

SECTION 11.(a) G.S. 143-213 reads as rewritten:

"§ 143-213. Definitions.

Unless the context otherwise requires, the following terms as used in this Article and Articles 21A and 21B of this Chapter are defined as follows:

(5a) The term "animal biomass gas facility" means a facility that receives the gases collected from one or more farm digester systems, for collection, cleaning, or other preparation of those gases prior to their introduction into a system for the collection and transport of natural gas or other similar energy resources.

(5b) The terms "animal waste" and "animal waste management system" have the same meaning as in G.S. 143-215.10B.

(12a) The term "farm digester system" means a system, including all associated equipment, by which gases are collected and processed from an animal waste management system for the digestion of animal biomass for use as a renewable energy resource. The term may also refer to a part of the farm digester system, including lagoon covers, digester equipment, associated safety equipment, emergency flares, or any piping or other equipment or means for the collection, handling, processing, or transport of collected gases to or from an animal biomass gas facility. A farm digester system shall be considered an agricultural feedlot activity within the meaning of "animal operation" as that term is defined in G.S. 143-215.10B.

(12b) The term "lagoon cover" means a structure or material that covers a lagoon receiving animal waste as part of an animal waste management system. For purposes of this subdivision, the term "lagoon" includes a lagoon as defined in G.S. 106-802(1) or a storage pond.

(14a) The term "renewable animal biomass energy resource" means any renewable energy resource, as defined in G.S. 62-133.8(a)(8), that utilizes animal waste as a biomass resource, including a farm digester system and an animal biomass gas facility.

"§ 143-215.10C. Applications and permits.

(a) No person shall construct or operate an animal waste management system for an animal operation or operate an animal waste management system for a dry litter poultry facility that is required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal Register 70418 (November 20, 2008), without first obtaining an individual permit or a general permit under this Article. The Commission shall develop a system of individual and general permits for animal operations and dry litter poultry facilities based on species, number of animals, and other relevant factors. The Commission shall develop a general permit for animal operations that includes authorization for the permittee to construct and operate a farm digester system. It is the intent of the General Assembly that most animal waste management systems be permitted under a general permit. The Commission, in its discretion, may require that an animal waste management system be permitted under an individual permit if the Commission determines that an individual permit is necessary to protect water quality, public health, or the environment. The owner or operator of an animal operation shall submit an application for a permit at least 180 days prior to construction of a new animal waste management system or expansion of an existing animal waste management system and shall obtain the permit prior to commencement..."
of the construction or expansion. The owner or operator of a dry litter poultry facility that is
required to be permitted under 40 Code of Federal Regulations § 122, as amended at 73 Federal
Register 70418 (November 20, 2008), shall submit an application for a permit at least 180 days
prior to operation of a new animal waste management system.

..."

SECTION 11.(c) For purposes of this section, the following definitions apply:
(1) "Certificate of coverage" means an approval granted to a person who meets
the requirements of coverage under a general permit as provided in 15A
NCAC 02H .0127 (General Permits).
(2) "Commission" means the Environmental Management Commission.
(3) "Notice of intent" means a request for coverage under a general permit as
provided in 15A NCAC 02H .0127 (General Permits).

SECTION 11.(d) The Commission shall immediately initiate the process of
developing and issuing a general permit for animal operations that includes authorization for the
permittee to construct and operate a farm digester system. In addition to conditions required to
describe and authorize the construction of farm digester systems, the general permit shall contain
the same conditions that are included in the currently existing general permits for animal
operations, except for conditions relating to phosphorus loss assessment tests, groundwater
monitoring, and the filing of annual reports. The general permit shall become effective no later
than six months after the effective date of this section.

SECTION 11.(e) Until the general permit issued under subsection (d) of this section
becomes effective, any animal operation that holds a general or individual permit that (i) is in
effect on the effective date of this section and (ii) authorizes the construction and operation of a
farm digester system, may construct and continue to operate the farm digester system as
authorized by that permit. For any animal operation that holds a general or individual permit that
is in effect on the effective date of this section, but that does not authorize the construction and
operation of a farm digester system, an operator may submit a notice of intent to be covered under
the general permit to be developed under subsection (d) of this section. When an operator submits
a notice of intent, the Commission shall, within 90 days of receipt of the notice of intent, either
issue a certificate of coverage allowing the operator to construct and operate the farm digester
system or notify the operator of the basis for the denial of the certificate of coverage and give the
operator an opportunity to respond to the denial, provided that the denial must be based on a
substantial deviation from the applicable requirements to receive the certificate of coverage. If
the Commission fails to take action on the notice of intent within 90 days, authorization to
construct and operate a farm digester system under the existing general permit shall be deemed
approved, and the Commission shall, within 10 days following the expiration of the 90-day time
period, issue a written confirmation that the animal operation is covered by the then-existing
general permit and that the applicant may continue to operate an existing farm digester system,
or may construct and operate a new farm digester system.

SECTION 11.(f) In acting on a notice of intent for all or part of a farm digester
system, the Commission may solicit public comment but shall not hold or require a public
hearing.

SECTION 11.(g) G.S. 106-806 reads as rewritten:
"§ 106-806. Construction or renovation of swine houses at preexisting swine farms.
(a) As used in this section, the following definitions apply:
(1) "Farm digester system" means a farm digester system as defined in
G.S. 143-213(12a).
(2) "New swine farm" means any swine farm the operations of which were sited
on or after October 1, 1995. "New swine farm" does not include any
preexisting swine farm, even if a subsequent site evaluation is performed on
or after October 1, 1995, at the preexisting swine farm.
"Preexisting swine farm" means any swine farm either the operations of which were begun prior to October 1, 1995, or the site evaluation of which was approved prior to October 1, 1995, by the Department of Environmental Quality under Part 1A of Article 21 of Chapter 143 of the General Statutes.

"Renovation or construction," "renovated or constructed," and any similar phrase mean any activity to renovate, construct, reconstruct, rebuild, modify, alter, change, restructure, upgrade, improve, enlarge, reduce, move, or otherwise perform construction work on a swine house that is a component of a swine farm.

Notwithstanding any other provision of this Article, a farm digester system that is a component of a preexisting swine farm may be constructed or renovated if the construction or renovation of the farm digester system satisfies all of the following requirements:

1. The construction or renovation of the farm digester system does not result in an increase in the permitted capacity of the swine farm, as measured by the annual steady state live weight capacity of the swine farm.

2. The construction or renovation of the farm digester system does not result in requiring an increase in the total permitted capacity of the animal waste management system or systems located at the swine farm.

3. Except as provided in subsection (c) of this section, for any portion of a farm digester system that fails to meet any siting requirement for a lagoon under G.S. 106-803, the construction or renovation of the farm digester system does not result in any portion of the constructed or renovated farm digester system being located any closer to the building, property, or well that is the object of the siting requirement that the farm digester system fails to meet.

4. Renovation or construction of a farm digester system shall not be allowed in the 100-year floodplain.

SECTION 11.(h) G.S. 150B-34 is amended by adding a new subsection to read:

"(f) In any contested case involving a permitting action for a general permit for animal operations that includes authorization for the permittee to construct and operate a farm digester system, unless all parties to the case agree otherwise in writing, the administrative law judge shall conduct the hearing and make a final decision or order no later than 90 days after the commencement of the contested case pursuant to G.S. 150B-23. Upon written request of the administrative law judge or any party to the hearing, the Chief Administrative Law Judge may extend this deadline for good cause shown, no more than two times, for not more than 30 days per extension."

SECTION 11.(i) G.S. 150B-44 reads as rewritten:

"§ 150B-44. Right to judicial intervention when final decision unreasonably delayed.

(a) Failure of an administrative law judge subject to Article 3 of this Chapter or failure of an agency subject to Article 3A of this Chapter to make a final decision within 120 days of the close of the contested case hearing is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency or by the administrative law judge.

(b) Failure of an agency to make a final permitting decision involving a general permit for animal operations that includes authorization for the permittee to construct and operate a farm digester system, within 90 days of the agency's receipt of a notice of intent, is justification for a person whose rights, duties, or privileges are adversely affected by the delay to seek a court order compelling action by the agency. It shall not be necessary to file a petition for a contested case hearing pursuant to Article 3 of this Chapter to seek judicial relief. Any judicial review pursuant to this subsection involving allegations of failure to act within 90 days, or involving a claim of
delay in the issuance of any order under G.S. 150B-34(f), shall be given expedited judicial review."

SECTION 11.(j) G.S. 105-275 reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

…

(8)  a. Real and personal property that is used or, if under construction, is to be used exclusively for air cleaning or waste disposal or to abate, reduce, or prevent the pollution of air or water (including, but not limited to, waste lagoons and facilities owned by public or private utilities built and installed primarily for the purpose of providing sewer service to areas that are predominantly residential in character or areas that lie outside territory already having sewer service), if the Department of Environmental Quality or a local air pollution control program for air-cleaning devices located in an area where the Environmental Management Commission has certified a local air pollution control program pursuant to G.S. 143-215.112 furnishes a certificate to the tax supervisor of the county in which the property is situated or to be situated stating that the Environmental Management Commission or local air pollution control program has found that the described property:

1. Has been or will be constructed or installed;
2. Complies with or that plans therefor which have been submitted to the Environmental Management Commission or local air pollution control program indicate that it will comply with the requirements of the Environmental Management Commission or local air pollution control program;
3. Is being effectively operated or will, when completed, be required to operate in accordance with the terms and conditions of the permit, certificate of approval, or other document of approval issued by the Environmental Management Commission or local air pollution control program; and
4. Has or, when completed, will have as its primary rather than incidental purpose the reduction of water pollution resulting from the discharge of sewage and waste or the reduction of air pollution resulting from the emission of air contaminants.

Subdivision a. of this subdivision shall not apply to an animal waste management system, as defined in G.S. 143-215.10B, unless the Environmental Management Commission determines that the animal waste management system will accomplish all of the following:

1. Eliminate the discharge of animal waste to surface waters and groundwater through direct discharge, seepage, or runoff.
2. Substantially eliminate atmospheric emissions of ammonia.
3. Substantially eliminate the emission of odor that is detectable beyond the boundaries of the parcel or tract of land on which the farm is located.
4. Substantially eliminate the release of disease transmitting vectors and airborne pathogens.
5. Substantially eliminate nutrient and heavy metal contamination of soil and groundwater.
SECTION 11.(k) Subsection (h) of this section becomes effective on the date that the general permit required to be issued by the Environmental Management Commission under subsection (d) of this section becomes effective. The remainder of this section is effective when it becomes law.

CLARIFY THE DURATION OF DRIVERS LICENSES FOR H-2A WORKERS

SECTION 12.(a) G.S. 20-7(f)(3) reads as rewritten:

"(3) Duration of license for certain other drivers. – The durations listed in subdivisions (1), (2) and (2a) of this subsection are valid unless the Division determines that a license of shorter duration should be issued when the applicant holds valid documentation issued by, or under the authority of, the United States government that demonstrates the applicant's legal presence of limited duration in the United States. In no event shall a license of limited duration expire later than the expiration of the authorization for the applicant's legal presence in the United States. A drivers license issued to an H-2A worker expires three years after the date of issuance of the H-2A worker's visa; provided, if at any time during that three-year period an H-2A worker's visa duration is not extended by United States Citizenship and Immigration Services, the license expires on the date the H-2A worker's visa expires. For purposes of this subdivision, the term "H-2A worker" means a foreign worker who holds a valid H-2A visa pursuant to the Immigration and Nationality Act (8 U.S.C. § 1101(a)(15)(H)(ii)(a)) and who is legally residing in this State."

SECTION 12.(b) This section is effective when it becomes law.

SEVERABILITY CLAUSE AND EFFECTIVE DATE

SECTION 13.(a) If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and, to this end, the provisions of this act are declared to be severable.

SECTION 13.(b) Except as otherwise provided, this act is effective when it becomes law.