

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 1004  
HOUSE BILL 2260

AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL  
AMENDMENTS TO VARIOUS LAWS RELATING TO ENVIRONMENT,  
HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 66-58(b)(2) reads as rewritten:

"(2) The Department of Human ~~Resources~~ Resources, the Department of Environment, Health, and Natural Resources, or the Department of Agriculture for the sale of serums, vaccines, and other like products."

Sec. 2. G.S. 90-85.34A(a)(3) reads as rewritten:

"(3) Only prescription drugs and devices contained in a formulary recommended by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources and approved by the Board shall be dispensed;"

Sec. 3. G.S. 104G-21(e) is amended by deleting "(c)" and substituting "(d)".

Sec. 4. G.S. 113-202.1(c), as enacted by Chapter 423 of the 1989 Session Laws, is amended by deleting "G.S. 113A-202(d)" and inserting in lieu thereof "G.S. 113-202(d)".

Sec. 5. G.S. 104E-6.1(a) is amended by deleting the word "landfill" each time it occurs and substituting the word "disposal".

Sec. 6. G.S. 130A-101 is amended by adding a new subsection to read:

"(g) Each parent shall provide his or her social security number to the person responsible for preparing and filing the certificate of birth."

Sec. 7. The catch line of G.S. 130A-291 reads as rewritten:

"§ ~~130A-291. Solid Waste Unit in Department.~~ Division of Solid Waste Management."

Sec. 8. G.S. 130A-291(a) reads as rewritten:

"(a) For the purpose of promoting and preserving an environment that is conducive to public health and welfare, and preventing the creation of nuisances and the depletion of our natural resources, the Department shall maintain ~~an appropriate administrative unit~~ a Division of Solid Waste Management to promote sanitary processing, treatment, disposal, and statewide management of solid waste and the greatest possible recycling and recovery of resources, and the Department shall employ and retain such qualified personnel as may be necessary to effect such purposes. It is the purpose and intent of the State to be and remain cognizant not only of its responsibility to authorize and establish the statewide solid waste management program,

but also of its responsibility to monitor and supervise, through the Department, the activities and operations of units of local government implementing a permitted solid waste management facility serving a specified geographic area in accordance with a solid waste management plan."

Sec. 9. G.S. 130A-310.5(c), as amended by Section 4 of Chapter 286 of the 1989 Session Laws, is amended by deleting the phrase "Emergency Hazardous Waste Site Remedial Fund" and substituting in lieu thereof "Emergency Response Fund".

Sec. 10. G.S. 130A-310.7(a), as amended by Section 6 of Chapter 286 of the 1989 Session Laws, is amended by deleting the semicolon following the word "substance" and substituting a comma in lieu thereof.

Sec. 11. G.S. 130A-310.22, as enacted by Section 10 of Chapter 286 of the 1989 Session Laws, is amended by deleting the phrase "42 U.S.C. § 9604(b)(9)" and inserting in lieu thereof "42 U.S.C. § 9604(c)(9)".

Sec. 12. G.S. 130A-342(c), as enacted by Chapter 764 of the 1989 Session Laws, reads as rewritten:

"(c) The performance of individual aerobic treatment plants is to be documented by the counties and sent to the ~~Department of Human Resources or the Department of Environment, Health, and Natural Resources as appropriate.~~ Resources."

Sec. 13. G.S. 130B-15(e), as enacted by Chapter 168 of the 1989 Session Laws, reads as rewritten:

"(e) The Commission shall provide through its own personnel, private contractors, cooperative agreement with other governmental agencies, or any combination thereof, any active maintenance or remedial actions that may be required. Payment for the cost thereof shall be made from the Long-Term Care Fund established pursuant to ~~G.S. 130B-16.~~ G.S. 130B-17."

Sec. 14. G.S. 143-439(b) reads as rewritten:

"(b) The Pesticide Advisory Committee shall consist of: three practicing farmers; one conservationist (at large); one ecologist (at large); one representative of the pesticide industry; one representative of agribusiness (at large); one local health director; three members of the North Carolina State University School of Agriculture and Life Sciences, at least one of which shall be from the area of wildlife or biology; one member representing the North Carolina Department of Agriculture; one member representing the Department of Environment, Health, and Natural Resources; the State Health ~~Director;~~ Director or his designee; one representative of a public utility or railroad company which uses pesticides; one representative of the Board of Transportation; one member of the North Carolina Agricultural Aviation Association; one member of the general public (at large); one member actively engaged in forest pest management; and one member representing the Division of Solid Waste Management ~~Division~~ of the Department of Environment, Health, and Natural Resources. Each State agency represented on the Committee shall be appointed by the head of the agency. Other members of the Committee shall be appointed by the Board."

Sec. 15. Subsection (a) of Section 5 of Chapter 426 of the 1989 Session Laws reads as rewritten:

"(a) The Environmental Management Commission shall adopt water supply watershed classifications and applicable management requirements as required by ~~G.S. 143-214.4(b)~~ G.S. 143-214.5(b) no later than 1 January 1991."

Sec. 16. Subsection (b) of Section 5 of Chapter 426 of the 1989 Session Laws reads as rewritten:

"(b) The Environmental Management Commission shall publish the proposed classification of all existing water supply watersheds under the classifications adopted pursuant to ~~G.S. 143-214.4(b)~~ G.S. 143-214.5(b) no later than 1 January 1991. The Environmental Management Commission shall complete the classification of all existing water supply watersheds no later than 1 January 1992."

Sec. 17. G.S. 143-215.1(b1)(4), as enacted by Section 2 of Chapter 354 of the 1989 Session Laws, reads as rewritten:

"(4) Requirements of subsection (a) of this section that the Department review and ~~approval~~ approve of each individual facility."

Sec. 18. G.S. 143-350 is amended by deleting "G.S. 143-214" and substituting in lieu thereof "G.S. 143B-282".

Sec. 19. (a) G.S. 143B-279.4 reads as rewritten:

**"§ 143B-279.4. The Department of Environment, Health, and Natural Resources – Secretary; Deputy Secretaries.**

(a) The Secretary ~~of the Department~~ of Environment, Health, and Natural Resources shall be the head of the Department.

(b) The Secretary may appoint two Deputy Secretaries."

(b) The Revisor of Statutes shall delete every reference to the Secretary of the Department of Environment, Health, and Natural Resources, the Secretary of the North Carolina Department of Environment, Health, and Natural Resources, any such similar reference, and any reference to any predecessor officers in any portion of the General Statutes and substitute, as appropriate and consistent with this act and Chapter 727 of the 1989 Session Laws, the phrase "Secretary of Environment, Health, and Natural Resources."

Sec. 20. G.S. 159I-3(a)(6) as enacted by Chapter 756 of the 1989 Session Laws reads as rewritten:

"(6) 'Division' means the ~~Division of Health Services~~ Division of Solid Waste Management of the Department of Environment, Health, and Natural Resources and any successor of said Division."

Sec. 21. G.S. 159I-7(b), as enacted by Chapter 756 of the 1989 Session Laws, reads as rewritten:

"(b) Moneys in the Solid Waste Management Loan Fund may be invested in the same manner as permitted for investments of funds belonging to the State or held in the State treasury. Interest earnings derived from such investments shall be credited to the Fund, credited to such other use as may be provided in a trust agreement or resolution securing any bonds or notes issued under the provisions of this Chapter, or credited to such other use, including the payment of administrative expenses of the Agency, the costs of research for solid waste management programs and the making of grants for such research, as may be directed by the Board.

(b1) In connection with solid waste research to be contracted for by the ~~Solid Waste Branch, Division~~, the Secretary of the ~~Department to which that Branch is assigned, statutorially, Environment, Health, and Natural Resources~~ shall negotiate, with the Board of the Agency, a memorandum of agreement which shall contain necessary rules and provisions for certifying that proper competitive bid procedures, and when appropriate, proper sole source bid procedures, for contracts have been executed in connection with a Request for Proposals (RFP); and, which shall state that a previously determined one-to-one match requirement from private sector sources has been met in accordance with rules and provisions set out in the memorandum of agreement, and that the Secretary is ready to award a contract for a specified amount. The Treasurer, at the direction of the board, shall certify that funds are available and that the purpose of the contract is consistent with provisions for the use of solid waste loan program proceeds."

Sec. 22. G.S. 159I-15(d) is amended in the second sentence by deleting the phrase "place or place" and substituting in lieu thereof the phrase "place or places".

Sec. 23. G.S. 159I-15(e) is amended in the third paragraph by deleting the word "at" as it appears in the phrase "such price or prices at the Local Government Commission shall determine" and substituting in lieu thereof the word "as".

Sec. 24. G.S. 159I-16(c) is amended in the second sentence by deleting the word "noticed" as it appears in the phrase "irrespective of whether such parties have noticed thereof" and substituting in lieu thereof the word "notice".

Sec. 25. G.S. 159I-16(d) is amended by inserting a comma after the word "Agency" as it appears in the phrase "costs of operation of the Agency".

Sec. 26. G.S. 159I-30(h) is amended:

(a) In the first sentence by deleting the word "form" as it appears in the phrase "40 years form their date" and substituting in lieu thereof the word "from"; and

(b) In the second sentence by deleting the phrase "place or place" and substituting in lieu thereof the phrase "place or places".

Sec. 27. Section 2 of Chapter 129 of the 1989 Session Laws reads as rewritten:

"Sec. 2. This act applies only to ~~that portion~~ the inland waters of the Black River in Sampson, Pender, and Bladen Counties between Clear Run Bridge at Highway 411 and its junction with the Cape Fear River, and to that portion of South River in Sampson and Bladen Counties from Ennis Bridge at Highway 1007 to its junction with the Black River."

Sec. 28. Section 1 of Chapter 764 of the 1989 Session Laws is repealed.

Sec. 29. Subsection (1) of Section 2 of Chapter 146 of the 1989 Session Laws reads as rewritten:

"(1) ~~That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township more particularly described as follows: BEGINNING at a point which is located north 39° 07' 08" 67.86 feet from an iron pipe having a NC coordinate value of X 2996057.363 and Y 823796.892, running from said beginning point south 39° 07' 08" 15 feet to an iron pipe; thence north 49° 10' 51" east 47.98 feet to an iron~~

~~pipe in the edge of the right of way of the U.S. 158 Bypass; thence southeasterly along the aforementioned right of way 15 feet to a point; thence south 49° 10' 51" west 47.98 feet to the point of beginning and containing 719.7 square feet more or less, That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: Beginning at an iron rod which is located North 39°07'08" West 74.96 feet from an iron pipe having a NC Coordinate value of X-2996057.363 and Y-823796.892, said iron rod also being located in a common property line between the State of North Carolina and R. M. Ritchie, et al.; thence running from said beginning point South 39°07'08" East 10 feet to a point; thence North 49°10'51" East 47.98 feet to a point in the right-of-way of U.S. 158 Bypass; thence northwesterly along the aforementioned right-of-way 10 feet to an iron rod; thence South 49°10'51" West 47.98 feet to the point and place of beginning and containing 479.80 square feet more or less, and as drawn out by the Design and Development Section of the Division of Parks and Recreation on a map dated November 8, 1988."~~

Sec. 30. G.S. 143-260.10(3) reads as rewritten:

"(3) All lands within the boundaries of Jockey's Ridge State Park as of April 4, 1989, with the exception of the following tract: ~~That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: BEGINNING at a point which is located north 39° 07' 08" 67.86 feet from an iron pipe having a NC coordinate value of X 2996057.363 and Y 823796.892, running from said beginning point south 39° 07' 08" 15 feet to an iron pipe; thence north 49° 10' 51" east 47.98 feet to an iron pipe in the edge of the right of way of the U.S. 158 Bypass; thence southeasterly along the aforementioned right of way 15 feet to a point; thence south 49° 10' 51" west 47.98 feet to the point of beginning and containing 719.7 square feet more or less, That certain tract or parcel of land at Jockey's Ridge State Park in Dare County, Nags Head Township, more particularly described as follows: Beginning at an iron rod which is located North 39°07'08" West 74.96 feet from an iron pipe having a NC Coordinate value of X-2996057.363 and Y-823796.892, said iron rod also being located in a common property line between the State of North Carolina and R. M. Ritchie, et al.; thence running from said beginning point South 39°07'08" East 10 feet to a point; thence North 49°10'51" East 47.98 feet to a point in the right-of-way of U.S. 158 Bypass; thence northwesterly along the aforementioned right-of-way 10 feet to an iron rod; thence South 49°10'51" West 47.98 feet to the point and place of beginning and containing 479.80 square feet more or less, and as drawn out by the~~

Design and Development Section of the Division of Parks and Recreation on a map dated November 8, 1988."

Sec. 31. G.S. 143-279.3 is rewritten to read:

**"§ 143B-279.3. Department of Environment, Health, and Natural Resources – structure.**

(a) All functions, powers, duties, and obligations heretofore vested in the following subunits of the following departments are hereby transferred to and vested in the Department of Environment, Health, and Natural Resources by a Type I transfer, as defined in G.S. 143A-6:

- (1) Radiation Protection Section, Division of Facility Services, Department of Human Resources.
- (2) Division of Health Services, Department of Human Resources.
- (3) State Center for Health Statistics, Department of Human Resources.
- (4) Coastal Management Division, Department of Natural Resources and Community Development.
- (5) Environmental Management Division, Department of Natural Resources and Community Development.
- (6) Forest Resources Division, Department of Natural Resources and Community Development.
- (7) Land Resources Division, Department of Natural Resources and Community Development.
- (8) Marine Fisheries Division, Department of Natural Resources and Community Development.
- (9) Parks and Recreation Division, Department of Natural Resources and Community Development.
- (10) Soil and Water Conservation Division, Department of Natural Resources and Community Development.
- (11) Water Resources Division, Department of Natural Resources and Community Development.
- (12) North Carolina Zoological Park, Department of Natural Resources and Community Development.
- (13) Albemarle-Pamlico Study.

(b) All functions, powers, duties, and obligations heretofore vested in the following commissions, boards, councils, and committees of the following departments are hereby transferred to and vested in the Department of Environment, Health, and Natural Resources by a Type II transfer, as defined in G.S. 143A-6:

- (1) Governor's Waste Management Board, Department of Human Resources.
- (2) Radiation Protection Commission, Department of Human Resources.
- (3) Commission for Health Services, Department of Human Resources.
- (4) Water Treatment Facility Operators Board of Certification, Department of Human Resources.
- (5) Council on Sickle Cell Syndrome, Department of Human Resources.

- (6) Perinatal Health Care Programs Advisory Council, Department of Human Resources.
  - (7) Governor's Council on Physical Fitness and Health, Department of Human Resources.
  - (8) Commission of Anatomy, Department of Human Resources.
  - (9) Coastal Resources Commission, Department of Natural Resources and Community Development.
  - (10) Environmental Management Commission, Department of Natural Resources and Community Development.
  - (11) Air Quality Council, Department of Natural Resources and Community Development.
  - (12) Wastewater Treatment Plant Operators Certification Commission, Department of Natural Resources and Community Development.
  - (13) Forestry Council, Department of Natural Resources and Community Development.
  - (14) North Carolina Mining Commission, Department of Natural Resources and Community Development.
  - (15) Advisory Committee on Land Records, Department of Natural Resources and Community Development.
  - (16) Marine Fisheries Commission, Department of Natural Resources and Community Development.
  - (17) Parks and Recreation Council, Department of Natural Resources and Community Development.
  - (18) Board of Trustees of the Recreation and Natural Trust Fund, Department of Natural Resources and Community Development.
  - (19) North Carolina Trails Committee, Department of Natural Resources and Community Development.
  - (20) Sedimentation Control Commission, Department of Natural Resources and Community Development.
  - (21) State Soil and Water Conservation Commission, Department of Natural Resources and Community Development.
  - (22) North Carolina Zoological Park Council, Department of Natural Resources and Community Development.
- (c) (1) There is hereby created a division within the environmental area of the Department of Environment, Health, and Natural Resources to be named the Division of Radiation Protection. All functions, powers, duties, and obligations of the Radiation Protection Section of the Division of Facility Services of the Department of Human Resources are transferred in their entirety to the Radiation Protection Division of the Department of Environment, Health, and Natural Resources.
- (2) There is hereby created a division within the environmental area of the Department of Environment, Health, and Natural Resources to be named the Division of Solid Waste Management. All functions, powers, duties, and obligations of the Solid Waste Management

Section of the Division of Health Services of the Department of Human Resources are transferred in their entirety to the Division of Solid Waste Management of the Department of Environment, Health, and Natural Resources.

(d) The Department of Environment, Health, and Natural Resources is vested with all other functions, powers, duties, and obligations as are conferred by the Constitution and laws of this State."

Sec. 32. G.S. 143B-432 is rewritten to read:

**"§ 143B-432. Transfers to Department of Economic and Community Development.**

(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, the Science and Technology Research Center of the Department of Natural and Economic Resources, and the North Carolina National Park, Parkway and Forests Development Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Economic and Community Development by a Type I transfer, as defined in G.S. 143A-6.

(b) All functions, powers, duties, and obligations heretofore vested in the following subunits of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Economic and Community Development by a Type I transfer as defined in G.S. 143A-6:

- (1) Community Assistance Division.
- (2) Employment and Training Division.

(c) All functions, powers, duties, and obligations heretofore vested in the following councils of the Department of Natural Resources and Community Development are hereby transferred to and vested in the Department of Economic and Community Development by a Type II transfer as defined in G.S. 143A-6:

- (1) Community Development Council.
- (2) Job Training Coordinating Council."

Sec. 33. Sections 31, 32, and 33 of this act are effective 1 July 1989. Sections 223, 224, 226, and 227 of Chapter 727 of the 1989 Session Laws and Sections 9, 17, and 22 of Chapter 751 of the 1989 Session laws apply to this section.

Sec. 34. (a) A new chapter is added to the General Statutes to be entitled:

"Chapter 108B.

"Community Action Programs."

(b) Article 1 of Chapter 108B of the General Statutes (G.S. 108B-1 through G.S. 108B-20) is reserved for future codification purposes.

(c) Article 1D of Chapter 113 of the General Statutes (G.S. 113-28.21 through G.S. 113-28.26) is recodified as Article 2 of Chapter 108B of the General Statutes (G.S. 108B-21 through G.S. 108B-26).

Sec. 35. G.S. 113-28.23 reads as rewritten:

**"§ ~~113-28.23~~108B-23. Designation of administering agency powers and responsibilities.**



(a) For purposes of this Article, 'Department' means the Department of ~~Economic and Community Development~~ Human Resources and 'Secretary' means the Secretary of ~~Economic and Community Development~~ Human Resources.

(b) The Department of ~~Economic and Community Development~~ is directed to carry out the purposes and provisions of this Article. In carrying out this directive, the Secretary of ~~the Department~~ shall promulgate rules consistent with the purposes and provisions of this Article."

Sec. 36. G.S. 150B-1(d)(3) reads as rewritten:

"(3) The Department of Human Resources is exempt from this Chapter in exercising its authority over the Camp Butner reservation granted in Article 6 of Chapter 122C of the General Statutes. The Department of Human Resources is also and the Department of Environment, Health, and Natural Resources are exempt from Article 3 of this Chapter in complying with the procedural safeguards mandated by the Section 680 of Part H of P.L. 99-457 as amended (Education of the Handicapped Act Amendments of 1986)."

Sec. 37. G.S. 130A-342(c) reads as rewritten:

"(c) The performance of individual aerobic treatment plants is to be documented by the counties and sent to ~~the Department of Human Resources or the Department of Environment, Health, and Natural Resources as appropriate.~~ Resources."

Sec. 38. G.S. 104G-13(c) and (d) read as rewritten:

"(c) The approval of the Authority under this section is in addition to the approval of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources in accordance with the rules and regulations of the Commission.

(d) Upon proper closure, the Authority shall assume responsibility for a low-level radioactive waste disposal facility site during the institutional care period and shall release the operator from further responsibility, subject to approval by the Department of ~~Human Resources~~ Environment, Health, and Natural Resources of the transfer of the license to the Authority."

Sec. 39. G.S. 104G-21(f) reads as rewritten:

"(f) The Board shall serve as the arbitrator or shall appoint the arbitrator of any issue submitted for arbitration under this section."

Sec. 40. G.S. 130B-21(f) reads as rewritten:

"(f) The Board shall serve as the arbitrator or shall appoint the arbitrator of any issue submitted for arbitration under this section."

Sec. 41. G.S. 104E-8 reads as rewritten:

**"§ 104E-8. Radiation Protection Commission – Members; selections; removal; compensation; quorum; services.**

(a) The Commission shall consist of ~~40~~11 voting public members and 10 nonvoting ex officio members. The ~~40~~11 voting public members of the Commission shall be appointed by the Governor as follows:

(1) One member who shall be actively involved in the field of environmental protection;

- (2) One member who shall be an employee of one of the licensed public utilities involved in the generation of power by atomic energy;
- (3) One member who shall have experience in the field of atomic energy other than power generation;
- (4) One member who shall be a scientist or engineer from the faculty of one of the institutions of higher learning in the State;
- (5) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Medical Society;
- (6) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Dental Society;
- (7) One member who shall have recognized knowledge in the field of radiation and its biological effects from the State at large;
- (8) One member who shall have recognized knowledge in the field of radiation and its biological effects and who shall be a practicing hospital administrator from the North Carolina Hospital Association;
- (9) One member who shall have recognized knowledge in the field of radiation and its biological effects from the North Carolina Chiropractic Association;
- (10) One member who shall have recognized knowledge in the clinical application of radiation, shall be a practicing radiologic technologist from the North Carolina Society of Radiologic Technologists, and shall be certified by the American Registry of Radiologic Technologists;
- (11) One member who shall have recognized knowledge in the clinical application of radiation and shall be a practicing podiatrist licensed by the North Carolina State Board of Podiatry Examiners.

(b) Public members so appointed shall serve terms of office of four years. Four of the initial members shall be appointed for two years, three members for three years, and three members for four years. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a public member shall be for the balance of the unexpired term. At the expiration of each public member's term, the Governor shall reappoint or replace the member with a member of like qualifications. At its first meeting on or after July first of each year, the Commission shall designate by election one of its public members as chairman and one of its public members as vice-chairman to serve through June thirtieth of the following year.

(c) The 10 ex officio members shall be appointed by the Governor, shall be members or employees of the following State agencies or their successors, and shall serve at the Governor's pleasure:

- (1) The Utilities Commission;
- (2) The Commission for Health Services;
- (3) The Environmental Management Commission;
- (4) The Board of Transportation;

- (5) ~~The Division of Civil Preparedness of the Department of the Military and Veterans Affairs; Emergency Management of the Department of Crime Control and Public Safety;~~
- (6) ~~The radiation protection program within the Department of Human Resources; Division of Radiation Protection of the Department;~~
- (7) The Department of Labor;
- (8) The Industrial Commission;
- (9) The Department of Insurance;
- (10) The Medical Care Commission.

(d) The Governor shall have the power to remove any member from the Commission for misfeasance, malfeasance, or nonfeasance in accordance with G.S. 143B-13.

(e) The members of the Commission shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.

(f) A majority of the public members of the Commission shall constitute a quorum for the transaction of business.

(g) All clerical and other services required by the Commission shall be supplied by the Secretary of the ~~Department of Human Resources.~~ Department."

Sec. 42. G.S. 153A-285 reads as rewritten:

**"§ 153A-285. Prerequisites to acquisition of water, water rights, etc.**

The word 'authority' as used in G.S. 162A-7(b) through (f) includes counties and cities acting jointly or through joint agencies to provide water services or sewer services or both. No county or city acting jointly and no joint agency may divert water from one stream or river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto until the diversion or acquisition is authorized by a certificate from the ~~Board of Water and Air Resources~~ Environmental Management Commission pursuant to G.S. 162A-7. Any proceeding to secure a certificate from the ~~Board~~ Environmental Management Commission shall be governed by the provisions of G.S. 162A-7(b) through 162A-7(f)."

Sec. 43. G.S. 162A-2(2) reads as rewritten:

- "(2) ~~The word 'Board' shall mean the Board of Water Commissioners of the State of North Carolina or the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this Article to the Board shall be given by law. The word 'Commission' shall mean the Environmental Management Commission.~~"

Sec. 44. G.S. 162A-7 reads as rewritten:

**"§ 162A-7. Prerequisites to acquisition of water, etc., by eminent domain.**

(a) No authority shall institute proceedings in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto without first securing from the ~~Board~~ Commission a certificate authorizing such acquisition.

(b) An authority seeking such certificate shall petition the ~~Board~~ Commission therefor in writing, which petition shall include a description of the waters or water rights involved, the plans for impounding or diverting such waters, and the names of riparian owners affected thereby insofar as known to the authority. Upon receipt of such

petition, the ~~Board-Commission~~ shall hold public hearing thereon after giving at least 30 days' written notice thereof to known affected riparian owners and notice published at least once each week for two successive weeks in a newspaper or newspapers of general circulation in each county in which lower riparian lands lie.

(c) The ~~Board-Commission~~ shall issue certificates only to projects which it finds to be consistent with the maximum beneficial use of the water resources in the State and shall give paramount consideration to the statewide effect of the proposed project rather than its purely local or regional effect. In making this determination, the ~~Board Commission~~ shall specifically consider:

- (1) The necessity of the proposed project;
- (2) Whether the proposed project will promote and increase the storage and conservation of water;
- (3) The extent of the probable detriment to be caused by the proposed project to the present beneficial use of water in the affected watershed and resulting damages to present beneficial users;
- (4) The extent of the probable detriment to be caused by the proposed project to the potential beneficial use of water on the affected watershed;
- (5) The feasibility of alternative sources of supply to the petitioning authority and the comparative cost thereof;
- (6) The extent of the probable detriment to be caused by the use of alternative sources of supply to present and potential beneficial use of water on the watershed or watersheds affected by such alternative sources of supply;
- (7) All other factors as will, in the ~~Board's-Commission's~~ opinion, produce the maximum beneficial use of water for all in all areas of the State affected by the proposed project or alternatives thereto.

(c1) Upon the considerations above set forth, set out is subsection (c) of this section, the ~~Board-Commission~~ may grant its certificate in whole or in part or it may refuse the same.

(d) At the public hearing provided for in subsection (b) above the ~~Board Commission~~ shall hear evidence from the authority and any others in support of its petition and from all persons opposed thereto.

(e) At any hearing authorized by this section, the ~~Board-Commission~~ shall have power to administer oaths; to take testimony; to issue subpoenas and compel the attendance of witnesses, which shall be served in the same manner as subpoenas issued by the superior courts of the State; and to order the taking of depositions in the same manner as depositions are taken for use in the superior court.

(f) Any final order or decision of the ~~Board-Commission~~ in administering the provisions of this section shall be subject to judicial review at the instance of any person or authority aggrieved by such order or decision by complying with the provisions of ~~Article 33, Chapter 143 of the General Statutes of North Carolina. Article 4 of Chapter 150B of the General Statutes.~~"

Sec. 45. G.S. 162A-9 reads as rewritten:

**"§ 162A-9. Rates and charges; contracts for water or services; deposits; delinquent charges.**

(a) Each authority shall fix, and may revise from time to time, reasonable rates, fees and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or parts thereof owned or operated by such authority. Such rates, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the State or of any political subdivision. Such rates, fees and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all ~~times~~ times:

- (1) To pay the cost of maintaining, repairing and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and
- (2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

(b) Notwithstanding any of the foregoing provisions of this section, the authority may enter into contracts relating to the collection, treatment or disposal of sewage or the purchase or sale of water which shall not be subject to revision except in accordance with their terms.

(c) In order to insure the payment of such rates, fees and charges as the same shall become due and payable, the authority may, in addition to any other remedies which it may ~~have~~ have:

- (1) Require reasonable advance deposits to be made with it to be subject to application to the payment of delinquent rates, fees and charges, and
- (2) At the expiration of 30 days after any such rates, fees and charges become delinquent, discontinue supplying water or the services and facilities of any water system or sewer system of the authority."

Sec. 46. G.S. 162A-15 reads as rewritten:

**"§ 162A-15. Services to authority by private water companies; records of water taken by authority; reports to ~~Board of Water Commissioners.~~ the Commission.**

Each private water company which is supplying water to the owners, lessees or tenants of real property which is or will be served by any sewer system of an authority is authorized to act as the billing and collecting agent of the authority for any rates, fees or charges imposed by the authority for the services rendered by such sewer system. Any such company shall, if requested by an authority furnish to the authority copies of its regular periodic meter reading and water consumption records and other pertinent data as may be required for the authority to act as its own billing and collecting agent. The authority shall pay to such water company the reasonable additional cost of clerical services and other expenses incurred by the water company in rendering such services to the authority. The authority shall by means of suitable measuring and recording

devices and facilities record the quantity of water taken daily by it from any stream or reservoir and make monthly reports of such daily recordings to the ~~Board of Water Commissioners of the State of North Carolina. Commission.~~"

Sec. 47. G.S. 153A-430, as enacted by Chapter 888 of the 1989 Session Laws, 1990 Regular Session, reads as rewritten:

**"§ 153A-430. Controlling provisions; compliance Compliance with other law.**

(a) ~~Insofar as the provisions of this Article are not consistent with the provisions of any other law, public or private, the provisions of this Article shall be controlling.~~

(b) An authority created pursuant to this Article shall comply with all applicable federal and State laws, regulations, and rules, including specifically those enacted or adopted for the management of solid waste or for the protection of the environment or public health."

Sec. 47.1. Section 2 of Chapter 888 of the 1989 Session Laws, 1990 Regular Session, is amended by inserting "(a)" between "159I-3" and "(13)" in the citation in the first line thereof.

Sec. 48. G.S. 143-215.6(b)(4) reads as rewritten:

"(4) For purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in G.S. ~~143-213, 143-212,~~ any responsible corporate or public officer or employee; provided, however, that where a vote of the people is required to effectuate the intent and purpose of this Article by a county, city, town, or other political subdivision of the State, and the vote on the referendum is against the means or machinery for carrying said intent and purpose into effect, then, and only then, this subsection shall not apply to elected officials or to any responsible appointed officials or employees of such county, city, town, or political subdivision."

Sec. 49. G.S. 143-215.114(b)(4) reads as rewritten:

"(4) For purposes of this subsection, the term 'person' shall mean, in addition to the definition contained in G.S. ~~143-213, 143-212,~~ any responsible corporate or public officer or employee; provided, however, that where a vote of the people is required to effectuate the intent and purpose of this Article by a county, city, town, or other political subdivision of the State, and the vote on the referendum is against the means or machinery for carrying said intent and purpose into effect, then, and only then, this subsection shall not apply to elected officials or to any responsible appointed officials or employees of such county, city, town, or political subdivision."

Sec. 50. G.S. 130A-29 reads as rewritten:

**"§ 130A-29. Commission for Health Services – creation, powers and duties.**

(a) ~~The Commission for Health Services of the Department of Environment, Health, and Natural Resources~~ is created with the authority and duty to adopt rules to protect and promote the public health.

(b) ~~The Commission for Health Services~~ is authorized to adopt rules necessary to implement the public health programs administered by the Department of ~~Environment,~~

Health, and Natural Resources as provided in Chapter 130A of the General Statutes. as provided in this Chapter.

- (c) The Commission for ~~Health Services~~ shall adopt rules:
- (1) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1022, s. 5.
  - (2) Establishing standards for approving sewage-treatment devices and holding tanks for marine toilets as provided in G.S. 75A-6(o);
  - (3) Establishing specifications for sanitary privies for schools where water-carried sewage facilities are unavailable as provided in G.S. 115C-522;
  - (4) Establishing requirements for the sanitation of local confinement facilities as provided in ~~G.S. 153-53.4; Part 2 of Article 10 of Chapter 153A of the General Statutes;~~ and
  - (5) Governing environmental impact statements and information required in applications to determine eligibility for water supply systems under the provisions of the North Carolina Clean Water Bond Act. Act of 1977, Chapter 677 of the 1977 Session Laws.
- (d) The Commission is authorized to create:
- (1) Metropolitan water districts as provided in G.S. 162A-33;
  - (2) Sanitary districts as provided in Part 2 of Article 2 of ~~Chapter 130A of the General Statutes;~~ this Chapter; and
  - (3) Mosquito control districts as provided in Part 2 of Article 12 of ~~Chapter 130A of the General Statutes.~~ this Chapter.
- (e) Rules adopted by the Commission for ~~Health Services~~ shall be enforced by the ~~Department of Environment, Health, and Natural Resources.~~ Department."

Sec. 51. G.S.130A-30(a) reads as rewritten:

"(a) The Commission for Health Services ~~of the Department of Environment, Health, and Natural Resources~~ shall consist of 12 members, four of whom shall be elected by the North Carolina Medical Society and eight of whom shall be appointed by the Governor."

Sec. 52. G.S. 74-24.4(c) reads as rewritten:

"(c) The Division of Health Services of the Department of ~~Human Resources~~ Environment, Health, and Natural Resources shall have primary responsibility for research and the recommendation of health standards to the Commissioner to effectuate the purposes of this Article, and nothing in this subsection shall affect the authority of the Commissioner with respect to the promulgation and enforcement of both safety and health standards."

Sec. 53. G.S. 74-24.4(d) reads as rewritten:

"(d) The procedures utilized for the adoption and promulgation of safety and health standards, including notice and public hearings, shall be in accordance with the Administrative Procedure Act ~~of North Carolina as the same appears as set out in Chapter 150A-150B~~ of the General Statutes."

Sec. 54. G.S. 74-82 reads as rewritten:

**"§ 74-82. Suspension, revocation or modification of permit.**

The Department may revoke, suspend or modify a permit for violations of this Article, any rules promulgated under it, or other terms or conditions of the permit. This authority is subject to the 'Special Provisions on Licensing' of G.S. ~~150A-3-150B-3.~~"

Sec. 55. The first sentence of G.S. 75A-6(o) reads as rewritten:

~~"The Department of Human Resources is hereby authorized and directed to prepare design standards that will be used as a guide in approving~~ Commission for Health Services shall adopt rules establishing standards for the approval of sewage treatment devices and holding tanks for marine toilets installed in boats operating on the inland fishing waters of the State as designated by the Wildlife Resources Commission and the inland lake waters of the State."

Sec. 56. The second sentence of G.S. 110-91(2) is amended by deleting "Department of Human Resources" and substituting "Department of Environment, Health, and Natural Resources."

Sec. 57. G.S. 143B-181.9A(d)(1) reads as rewritten:

"(1) One member each appointed by the Secretary of the Department of Human Resources from the Divisions of Aging, ~~of Health Services,~~ of Medical Assistance, of Mental Health, Mental Retardation, and Substance Abuse Services, of Social Services, and one director of an area agency on aging elected from among all the directors of the area agencies on aging. One member appointed by the Secretary of Environment, Health, and Natural Resources from the Division of Health Services."

Sec. 58. G.S. 159G-3(6) reads as rewritten:

"(6) 'Commission for Health Services' means the Commission for Health Services ~~of the Department of Environment, Health, and Natural Resources.~~ created by G.S. 130A-29."

Sec. 59. Except as otherwise provided herein, this act is effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1990.