

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 1024  
Agriculture/Environment/Natural Resources Committee Substitute Adopted  
4/26/01

Short Title: Amend Appointment of EMC Members.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE NUMBER OF MEMBERS OF THE ENVIRONMENTAL MANAGEMENT COMMISSION FROM SEVENTEEN TO EIGHTEEN, TO ALTER THE MANNER IN WHICH MEMBERS OF THE COMMISSION ARE APPOINTED, AND TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR MEMBERS OF THE COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-283 reads as rewritten:

"§ 143B-283. **Environmental Management Commission – members; selection; removal; compensation; quorum; services.**

(a) The Environmental Management Commission shall consist of ~~13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:~~ 18 members appointed as follows:

- (1) ~~One who shall be~~ who, at the time of appointment, is a licensed physician with specialized training and experience in the health effects of environmental ~~pollution;~~ pollution; appointed by the Governor.
- (2) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is actively connected with the Commission for Health Services or local board of health or ~~have~~ has experience in health ~~scienc~~ sciences; appointed by the Governor.
- (3) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is actively connected with or ~~have had~~ has experience in ~~agricult~~ agriculture; appointed by the Governor.
- (4) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is a registered engineer with specialized training and experience in water supply or water or air pollution ~~cont~~ control; appointed by the Governor.

- 1 (5) One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively  
2 connected with or ~~have had~~ has experience in the fish and wildlife  
3 conservation activities of the ~~State;~~ State, appointed by the Governor.
- 4 (6) One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special  
5 training and scientific expertise in hydrogeology or groundwater  
6 ~~hydrology;~~ hydrology, appointed by the Governor.
- 7 ~~(7) Three members interested in water and air pollution control, appointed~~  
8 ~~from the public at large;~~
- 9 ~~(8)(7)~~ One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively  
10 employed by, or recently retired from, an industrial manufacturing  
11 facility and knowledgeable in the field of industrial air and water  
12 pollution ~~control;~~ control, appointed by the Governor.
- 13 ~~(9)(8)~~ One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively  
14 connected with or ~~have had~~ has experience in pollution control  
15 problems of municipal or county ~~government;~~ government, appointed  
16 by the Governor.
- 17 ~~(10)(9)~~ One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special  
18 training and scientific expertise in air pollution control and the effects  
19 of air ~~pollution;~~ and pollution, appointed by the Governor.
- 20 ~~(11)(10)~~ One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special  
21 training and scientific expertise in freshwater, estuarine, marine  
22 biological, or ecological ~~sciences.~~ sciences, appointed by the Governor.
- 23 (11) One who is interested in water and air pollution control, appointed  
24 from the public at large by the General Assembly upon  
25 recommendation of the President Pro Tempore of the Senate.
- 26 (12) One who is interested in water and air pollution control, appointed  
27 from the public at large by the General Assembly upon  
28 recommendation of the President Pro Tempore of the Senate.
- 29 (13) One who is interested in water and air pollution control, appointed  
30 from the public at large by the General Assembly upon  
31 recommendation of the President Pro Tempore of the Senate.
- 32 (14) One who is interested in water and air pollution control, appointed  
33 from the public at large by the General Assembly upon  
34 recommendation of the President Pro Tempore of the Senate.
- 35 (15) One who is interested in water and air pollution control, appointed  
36 from the public at large by the General Assembly upon  
37 recommendation of the Speaker of the House of Representatives.
- 38 (16) One who is interested in water and air pollution control, appointed  
39 from the public at large by the General Assembly upon  
40 recommendation of the Speaker of the House of Representatives.

1           (17) One who is interested in water and air pollution control, appointed  
2           from the public at large by the General Assembly upon  
3           recommendation of the Speaker of the House of Representatives.

4           (18) One who is interested in water and air pollution control, appointed  
5           from the public at large by the General Assembly upon  
6           recommendation of the Speaker of the House of Representatives.

7           ~~(b) Members appointed by the Governor shall serve terms of office of six~~  
8 ~~years.~~ The term of office of members of the Commission is four years. Any appointment  
9 to fill a vacancy on the Commission created by the resignation, dismissal, death or  
10 disability of a member shall be for the balance of the unexpired term. The Governor  
11 appointing authority may reappoint a member of the Commission to an additional term  
12 if, at the time of the reappointment, the member qualifies for membership on the  
13 Commission under subsection (a) of this section. Upon the expiration of a term, a  
14 member may continue to serve until a successor is appointed and duly qualified as  
15 provided by G.S. 128-7. The term of members appointed under subdivisions (1), (5),  
16 (9), (13), and (17) of subsection (a) of this section expire on 1 July of years that follow  
17 by one year those years that are evenly divisible by four. The term of members  
18 appointed under subdivisions (2), (6), (10), (14), and (18) of subsection (a) of this  
19 section expire on 1 July of years that precede by one year those years that are evenly  
20 divisible by four. The term of members appointed under subdivisions (3), (7), (11), and  
21 (15) of subsection (a) of this section expire on 1 July of years that follow by two years  
22 those years that are evenly divisible by four. The term of members appointed under  
23 subdivisions (4), (8), (12), and (16) of subsection (a) of this section expire on 1 July of  
24 those years that are evenly divisible by four.

25           ~~(b1) The Governor shall have the power to may remove any member of the~~  
26 ~~Commission from office for misfeasance, malfeasance, or nonfeasance in accordance~~  
27 ~~with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973 as~~  
28 ~~provided in G.S. 143B-13~~

29           (b2) The members of the Commission shall receive per diem and necessary travel  
30 and subsistence expenses in accordance with the provisions of G.S. 138-5.

31           (b3) A majority of the Commission shall constitute a quorum for the transaction of  
32 business.

33           (b4) All clerical and other services required by the Commission shall be supplied  
34 by the Secretary of Environment and Natural Resources.

35           ~~(c) Nine-Two of the members appointed by the Governor under this section and~~  
36 ~~all of the members appointed by the General Assembly shall be persons who do not~~  
37 ~~derive any significant portion of their income from persons subject to permits or~~  
38 ~~enforcement orders under this Chapter. who engage in any activity this is regulated by~~  
39 ~~the Commission.~~ The Governor shall require adequate disclosure of potential conflicts  
40 of interest by members. The Governor, by executive order, shall promulgate criteria  
41 regarding conflicts of interest and disclosure thereof for determining the eligibility of  
42 persons under this section, giving due regard to the requirements of federal legislation,

1 and for this purpose may promulgate rules, regulations or guidelines in conformance  
2 with those established by any federal agency interpreting and applying provisions of  
3 federal law.

4 ~~(d) In addition to the members designated by subsection (a) of this section, the~~  
5 ~~General Assembly shall appoint four members, two upon the recommendation of the~~  
6 ~~Speaker of the House of Representatives, and two upon the recommendation of the~~  
7 ~~President Pro Tempore of the Senate. Appointments by the General Assembly shall be~~  
8 made in accordance with G.S. 120-121, and vacancies in those appointments shall be  
9 filled in accordance with G.S. 120-122. ~~Members appointed by the General Assembly~~  
10 ~~shall serve terms of two years.~~

11 (e) In making appointments to the Commission, the appointing authorities shall  
12 ensure that the geographic regions of the State are fairly represented by the membership  
13 of the Commission."

14 **SECTION 2.** In order to provide for an orderly transition in membership of  
15 the Environmental Management Commission and implementation of a system of  
16 staggered terms of four years for members of the Commission as specified in G.S.  
17 143B-283, as amended by Section 1 of this act, and in order that the terms of persons  
18 who were appointed to serve as members of the Commission prior to 1 July 2001 will  
19 not be altered by the implementation of this act, the following provisions apply:

- 20 (1) Franklin S. Clark, III shall serve in the position established by G.S.  
21 143B-283(a)(1) until 1 July 2001. The term of the individual next  
22 appointed to fill this position shall be four years and shall expire 1 July  
23 2005.
- 24 (2) Moses Carey, Jr. shall serve in the position established by G.S.  
25 143B-283(a)(2) until 1 July 2001. The term of the individual next  
26 appointed to fill this position shall be six years and shall expire 1 July  
27 2007.
- 28 (3) Robert E. Cook shall serve in the position established by G.S.  
29 143B-283(a)(3) until 1 July 2003. The term of the individual next  
30 appointed to fill this position shall be three years and shall expire 1  
31 July 2006.
- 32 (4) E. Leo Green, Jr. shall serve in the position established by G.S.  
33 143B-283(a)(4) until 1 July 2003. The term of the individual next  
34 appointed to fill this position shall be five years and shall expire 1 July  
35 2008.
- 36 (5) Daniel V. Besse shall serve in the position established by G.S.  
37 143B-283(a)(5) until 1 July 2005. The term of the individual next  
38 appointed to fill this position shall be four years and shall expire 1 July  
39 2009.
- 40 (6) Ryan D. Turner shall serve in the position established by G.S.  
41 143B-283(a)(6) until 1 July 2001. The term of the individual next

- 1 appointed to fill this position shall be six years and shall expire 1 July  
2 2007.
- 3 (7) Frederick B. Starr shall serve in the position established by G.S.  
4 143B-283(a)(7) until 1 July 2005. The term of the individual next  
5 appointed to fill this position shall be five years and shall expire 1 July  
6 2010.
- 7 (8) Edwin S. Melvin shall serve in the position established by G.S.  
8 143B-283(a)(8) until 1 July 2001. The term of the individual next  
9 appointed to fill this position shall be three years and shall expire 1  
10 July 2004.
- 11 (9) Marion E. Deerhake shall serve in the position established by G.S.  
12 143B-283(a)(9) until 1 July 2003. The term of the individual next  
13 appointed to fill this position shall be six years and shall expire 1 July  
14 2009.
- 15 (10) Charles H. Peterson shall serve in the position established by G.S.  
16 143B-283(a)(10) until 1 July 2001. The term of the individual next  
17 appointed to fill this position shall be six years and shall expire 1 July  
18 2007.
- 19 (11) Will B. Fowler shall serve in the position established by G.S.  
20 143B-283(a)(11) until 1 July 2005. The term of the individual next  
21 appointed to fill this position shall be five years and shall expire 1 July  
22 2010.
- 23 (12) Robert Epting shall serve in the position established by G.S.  
24 143B-283(a)(12) until 1 July 2001. The term of the individual next  
25 appointed to fill this position shall be three years and shall expire 1  
26 July 2004.
- 27 (13) Robert G. Ray shall serve in the position established by G.S.  
28 143B-283(a)(13) until 1 July 2001. The term of the individual next  
29 appointed to fill this position shall be four years and shall expire 1 July  
30 2005.
- 31 (14) The term of the individual first appointed to fill the position  
32 established by G.S. 143B-283(a)(14) shall be two years and shall  
33 expire 1 July 2003.
- 34 (15) David H. Moreau shall serve in the position established by G.S.  
35 143B-283(a)(15) until 1 July 2005. The term of the individual next  
36 appointed to fill this position shall be five years and shall expire 1 July  
37 2010.
- 38 (16) Don Abernathy shall serve in the position established by G.S.  
39 143B-283(a)(16) until 1 July 2001. The term of the individual next  
40 appointed to fill this position shall be three years and shall expire 1  
41 July 2004.

1           (17) Anne Barnes shall serve in the position established by G.S.  
2           143B-283(a)(17) until 1 July 2001. The term of the individual next  
3           appointed to fill this position shall be four years and shall expire 1 July  
4           2005.

5           (18) Larry M. Jordan shall serve in the position established by G.S.  
6           143B-283(a)(18) until 1 July 2003. The term of the individual next  
7           appointed to fill this position shall be four years and shall expire 1 July  
8           2007.

9           **SECTION 3.** This act becomes effective 1 July 2001 and, except as  
10          provided in Section 2 of this act, applies to appointments made on or after that date.