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(Public)

Sponsors:

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April 13, 2009

A BILL TO BE ENTITLED

AN ACT TO TRANSFER THE STATE ENERGY OFFICE FROM THE DEPARTMENT OF ADMINISTRATION TO THE DEPARTMENT OF COMMERCE, TO TRANSFER THE RESIDENTIAL ENERGY CONSERVATION ASSISTANCE PROGRAM FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO THE ENERGY OFFICE OF THE DEPARTMENT OF COMMERCE, AND TO MAKE VARIOUS CHANGES TO THE ENERGY POLICY ACT OF 1975.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** The State Energy Office is transferred from the Department of Administration to the Department of Commerce. This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

**SECTION 1.(b)** G.S. 143-345.18(a) reads as rewritten:

"(a) For the purposes of this Part, the Department of ~~Administration, Commerce~~, State Energy Office, is designated as the lead State agency in matters pertaining to energy efficiency."

**SECTION 1.(c)** G.S. 143-64.17H reads as rewritten:

"§ 143-64.17H. **Report on guaranteed energy savings contracts entered into by State governmental units.**

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State Energy Office of the Department of ~~Administration-Commerce~~ within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be realized from a contract and shall evaluate whether expected savings have in fact been realized."

**SECTION 1.(d)** G.S. 143-64.17F reads as rewritten:

"§ 143-64.17F. **State agencies to use contracts when feasible; rules; recommendations.**

(a) State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical.



1 (b) The Department of Administration, in consultation with the Department of  
2 Commerce through the State Energy Office, shall adopt rules for: (i) agency evaluation of  
3 guaranteed energy savings contracts; (ii) establishing time periods for consideration of  
4 guaranteed energy savings contracts by the Office of State Budget and Management, the Office  
5 of the State Treasurer, and the Council of State, and (iii) setting measurements and verification  
6 criteria, including review, audit, and precertification. Prior to adopting any rules pursuant to  
7 this section, the Department shall consult with and obtain approval of those rules from the State  
8 Treasurer.

9 (c) The Department of Administration, and the Department of Commerce through the  
10 State Energy Office, may provide to the Council of State its recommendations concerning any  
11 energy savings contracts being considered."

12 **SECTION 1.(e)** G.S. 143-64.12(a) reads as rewritten:

13 "(a) The Department of ~~Administration~~ Commerce through the State Energy Office shall  
14 develop a comprehensive program to manage energy, water, and other utility use for State  
15 agencies and State institutions of higher learning and shall update this program annually. Each  
16 State agency and State institution of higher learning shall develop and implement a  
17 management plan that is consistent with the State's comprehensive program under this  
18 subsection to manage energy, water, and other utility use. The energy consumption per gross  
19 square foot for all State buildings in total shall be reduced by twenty percent (20%) by 2010  
20 and thirty percent (30%) by 2015 based on energy consumption for the 2002-2003 fiscal year.  
21 Each State agency and State institution of higher learning shall update its management plan  
22 annually and include strategies for supporting the energy consumption reduction requirements  
23 under this subsection. Each community college shall submit to the State Energy Office an  
24 annual written report of utility consumption and costs."

25 **SECTION 1.(f)** G.S. 143-64.11(2a) reads as rewritten:

26 **"§ 143-64.11. Definitions.**

27 For purposes of this Article:

28 ...

29 (2a) "Energy Office" means the State Energy Office of the Department of  
30 ~~Administration~~ Commerce."

31 **SECTION 1.(g)** G.S. 143-58.4(a)(4) reads as rewritten:

32 "(a) As used in this section:

33 ...

34 (4) "Department" means the Department of ~~Administration~~ Commerce."

35 **SECTION 1.(h)** G.S. 143-58.4(c) reads as rewritten:

36 "(c) Adopt Rules. – The Secretary of ~~Administration~~ Commerce shall adopt rules as  
37 necessary to implement this section."

38 **SECTION 1.(i)** The Residential Energy Conservation Assistance Program is  
39 transferred from the Department of Health and Human Services to the Energy Office of the  
40 Department of Commerce, which was transferred to that Department by Section 1 of this act.  
41 This transfer shall have all of the elements of a Type I transfer, as defined in G.S. 143A-6.

42 **SECTION 2.(a)** Part 34A of Article 3 of Chapter 143B of the General Statutes is  
43 recodified as Part 21 of Article 10 of Chapter 143B of the General Statutes, and  
44 G.S. 143B-216.72A through G.S. 143B-216.72C are recodified as G.S. 143B-472.121 through  
45 G.S. 143B-472.123.

46 **SECTION 2.(b)** G.S. 143B-216.72B, as recodified as G.S. 143B-472.122 by this  
47 section, reads as rewritten:

48 **"§ 143B-472.122. Definitions.**

49 The following definitions apply to this Part:

- 1 (1) Applicant. – A member of the family residing in the dwelling unit, the  
 2 owner, or designated agent of the owner of a dwelling unit applying for  
 3 program services.
- 4 (2) Department. – The Department of ~~Health and Human Services~~.Commerce.
- 5 (3) Secretary. – The Secretary of ~~Health and Human Services~~.Commerce.
- 6 (4) Subgrantee. – An entity managing a weatherization project that receives a  
 7 federal grant of funds awarded pursuant to 10 C.F.R. § 440 (1 January 2006  
 8 edition) from this State or other entity named in the Notification of Grant  
 9 Award and otherwise referred to as the grantee.
- 10 (5) Weatherization. – The modification of homes and home heating and cooling  
 11 systems to improve heating and cooling efficiency by caulking and weather  
 12 stripping, as well as insulating ceilings, attics, walls, and floors."

13 **SECTION 3.** G.S. 113B-2 reads as rewritten:

14 **"§ 113B-2. Creation of Energy Policy Council; purpose of Council.**

15 (a) There is hereby created a council to advise and make recommendations on energy  
 16 policy to the Governor and the General Assembly to be known as the Energy Policy Council  
 17 which shall be located within the Department of ~~Administration~~.Commerce.

18 (b) Except as otherwise provided in this Chapter, the powers, duties and functions of  
 19 the Energy Policy Council shall be as prescribed by the Secretary of ~~Administration~~.  
 20 Commerce.

21 (c) The Energy Policy Council shall serve as the central energy policy planning body of  
 22 the State and shall communicate and cooperate with federal, State, regional and local bodies  
 23 and agencies to the end of effecting a coordinated energy policy."

24 **SECTION 4.** G.S. 113B-3 reads as rewritten:

25 **"§ 113B-3. Composition of Council; appointments; terms of members; qualifications.**

26 (a) The Energy Policy Council shall consist of ~~18~~16 members to be appointed as  
 27 follows:

- 28 (1) Two members of the North Carolina House of Representatives to be  
 29 appointed by the Speaker of the House of Representatives;
- 30 (2) Two members of the North Carolina Senate to be appointed by the President  
 31 Pro Tempore of the Senate;
- 32 (3) ~~Nine~~Twelve public members who are citizens of the State of North Carolina  
 33 to be appointed by the ~~Governor~~.Governor. The Governor shall designate  
 34 one of the public members as chair of the Council.
- 35 (4) ~~The chairman of the North Carolina Utilities Commission, the Secretary of~~  
 36 ~~Environment and Natural Resources, the Commissioner of Agriculture, the~~  
 37 ~~Secretary of Commerce and the Secretary of Administration or their~~  
 38 ~~designees from their respective departments.~~

39 (b) ~~Initial appointments~~Appointments to the Energy Policy Council shall be made by  
 40 ~~July 15, 1975, July 15, 2009,~~ and each such appointee shall serve until ~~January 31, 1977.~~  
 41 January 31, 2011. Thereafter, the appointed members of the General Assembly shall serve  
 42 two-year terms, and the appointed public members shall serve four-year terms. A member of  
 43 the Energy Policy Council shall continue to serve until his successor is duly appointed, but such  
 44 holdover shall not affect the expiration date of such succeeding term.

45 (c) The public members of the Energy Policy Council shall have the following  
 46 qualifications:

- 47 (1) One ~~such~~ member shall be experienced in the electric power industry;
- 48 (2) One ~~such~~ member shall be experienced in the natural gas industry;
- 49 (2a) One member shall be experienced in energy policy matters;
- 50 (3) One ~~such~~ member shall be experienced in ~~the petroleum marketing industry;~~  
 51 alternative fuels and biofuels;

- 1           (4)    One ~~such~~ member shall be experienced in ~~economic analysis of energy~~  
2           ~~requirements;~~ energy efficient building design or construction;  
3           (5)    One ~~such~~ member shall be experienced in environmental protection;  
4           (6)    One ~~such~~ member shall be experienced in ~~industrial energy consumption;~~  
5           ~~who is engaged in a business providing renewable energy or other energy~~  
6           ~~services;~~  
7           (7)    One ~~such~~ member shall be knowledgeable of alternative and renewable  
8           sources of energy;  
9           (8)    One ~~such~~ member who, at the time of appointment, is a county  
10           commissioner; or elected municipal officer; provided, ~~such~~ the member's  
11           term on the Council shall expire immediately in the event that he or she  
12           vacates office as a county ~~commissioner;~~ commissioner or municipal officer;  
13           (9)    One ~~such~~ member who, at the time of appointment, is an ~~elected municipal~~  
14           ~~official;~~ provided, ~~such~~ member's term on the Council shall expire  
15           ~~immediately in the event that he or she vacates office as an elected~~  
16           ~~municipal official.~~  
17           (10)   One member shall be knowledgeable in the finance, business development,  
18           or technology development of energy-related business;  
19           (11)   One member shall be experienced in low-income energy policy matters or  
20           low-income residential weatherization.  
21           (12)   One member shall be experienced in the petroleum industry."

22           **SECTION 5.** G.S. 113B-4(a) reads as rewritten:

23           "(a)    On ~~July 15, 1975,~~ August 15, 2009, on ~~January 31, 1977,~~ January 31, 2011, and  
24           every four years thereafter, the Governor shall ~~designate one of the members of the Energy~~  
25           ~~Policy Council to serve as chairman~~ appoint a chair of the Council."

26           **SECTION 6.** G.S. 113B-6 reads as rewritten:

27           "**§ 113B-6. General duties and responsibilities.**

28           The Energy Policy Council shall have the following general duties and responsibilities:

- 29           (1)    To develop and recommend to the Governor a comprehensive long-range  
30           State energy policy to achieve maximum effective management and use of  
31           present and future sources of energy, such policy to include but not be  
32           limited to ~~an energy efficiency program, an energy management plan, an~~  
33           ~~emergency energy program, and an energy research and development~~  
34           ~~program;~~ energy efficiency, renewable and alternative sources of energy,  
35           research and development into alternative energy technologies, and  
36           improvements to the State's energy infrastructure and energy economy;  
37           (2)    To conduct an ongoing assessment of the opportunities and constraints  
38           presented by various uses of all forms of energy and to encourage the  
39           efficient use of all such energy forms in a manner consistent with State  
40           energy policy;  
41           (3)    To continually review and coordinate all State government research,  
42           education and management programs relating to energy matters and to  
43           continually educate and inform the general public regarding such energy  
44           matters;  
45           (4)    To recommend to the Governor and to the General Assembly needed energy  
46           legislation and to recommend for implementation such modifications of  
47           energy policy, plans and programs as the Council considers necessary and  
48           desirable.  
49           (5)    ~~To develop and administer the Low Income Residential Energy Program.~~  
50           ~~Nothing in this subdivision shall be construed as obligating the General~~

1 Assembly to appropriate funds for the Program or as entitling any person to  
2 services under the Program."

3 **SECTION 7.** G.S. 113B-10 is repealed.

4 **SECTION 8.** G.S. 113B-11 reads as rewritten:

5 "**§ 113B-11. Powers and authority.**

6 (a) The Energy Policy Council is authorized to secure directly from any officer, office,  
7 department, commission, board, bureau, institution and other agency of the State and its  
8 political subdivisions any information it deems necessary to carry out its functions; and all such  
9 officers and agencies shall cooperate with the Council and, to the extent permitted by law,  
10 furnish such information to the Council as it may request.

11 (b) To assure the adequate development of relevant energy information, ~~as provided in~~  
12 ~~G.S. 113B-10,~~ the Council may require all energy producers and major energy consumers, as  
13 determined by the Council, to file such reports and forecasts and at such dates as the Council  
14 may request; provided, however, that the Council may request only specific energy-related  
15 information which it deems necessary to carry out its duties as defined in Articles 1 and 2 of  
16 this Chapter.

17 (c) The Council shall have authority to apply for and utilize grants, contributions and  
18 appropriations in order to carry out its duties as defined in Articles 1 and 2 of this Chapter,  
19 provided, however, that all such applications and requests are made through and administered  
20 by the Department of ~~Administration-Commerce.~~

21 (d) The Council shall have authority to request said Department to allocate and dispense  
22 any funds made available to the Council for energy research and related work efforts in such  
23 a manner as the Council desires subject only to the stipulation that said funds be reasonably used  
24 in furtherance of the purposes of this Article.

25 (e) The Department of ~~Administration-Commerce~~ shall provide the staffing capability  
26 to the Energy Policy Council so as to fully and effectively develop recommendations for a  
27 comprehensive State energy policy as contained in the provisions of this Article. The Utilities  
28 Commission is hereby authorized to make its staff available to the Council to assist in the  
29 development of a State energy policy."

30 **SECTION 9.** G.S. 113B-12(b) reads as rewritten:

31 "(b) The report shall include, but not be limited to, the following:

- 32 (1) An overview of statewide growth and development as they relate to future  
33 requirements for energy, including patterns of urban and metropolitan  
34 expansion, shifts in transportation modes, modifications in building types  
35 and design, and other trends and factors which, as determined by the  
36 Council, will significantly affect energy needs;
- 37 (2) The level of statewide and multi-county regional energy demand for a five-,  
38 10- and 20-year forecast period which, in the judgment of the Council, can  
39 reasonably be met, with proposals as to possible energy supply sources;
- 40 (3) An assessment of growth trends in energy consumption and production and  
41 an identification of potential adverse social, economic, or environmental  
42 impacts which might be imposed by continuation of the present trends,  
43 including energy costs to consumers, significant increases in air, water, and  
44 other forms of pollution, threats to public health and safety, and loss of  
45 scenic and natural areas;
- 46 (4) An analysis ~~and evaluation of the means by which the projected annual~~  
47 ~~growth rate of energy demand may be reduced, together with an estimate of~~  
48 ~~the amount of such reduction to be obtained by each of the means analyzed~~  
49 ~~and evaluated;~~ of the role of energy efficiency, renewable energy,  
50 improvements to the State's energy infrastructure, and other means in  
51 meeting the State's current and projected energy demand;

- 1           (5)    ~~The status of the Council's ongoing energy research and development~~  
2           ~~program and an assessment of the energy research and planning efforts~~  
3           ~~carried out in North Carolina;~~
- 4           (6)    Recommendations to the Governor and the General Assembly for additional  
5           administrative and legislative actions on energy matters;
- 6           (7)    A summary of the Council's activities since its inception, a description of  
7           major plans developed by the Council, an assessment of plan  
8           implementation, and a review of Council plans and programs for the coming  
9           biennium."

10           **SECTION 10.** The Secretary of Commerce and the Chair of the Utilities  
11 Commission shall jointly prepare a report examining the respective duties and functions of the  
12 Utilities Commission and the Energy Policy Council and shall recommend changes to address  
13 any duplicative activities and responsibilities. This report shall be submitted to the Governor no  
14 later than January 31, 2010.

15           **SECTION 11.** This act is effective when it becomes law.