SENATE BILL 607:
Regulatory Reform Act of 2024.

2023-2024 General Assembly

Committee:		**Date:**	June 27, 2024
Introduced by:	Sens. Alexander, Jarvis, Ford	**Prepared by:**	Kyle Evans
Analysis of:	Fifth Edition		Jennifer McGinnis
			Chris Saunders
			Aaron McGlothlin
			Staff Attorney

OVERVIEW: Senate Bill 607 would amend State laws related to occupational licensing, rulemaking, State and local government, and other miscellaneous regulations.

CURRENT LAW & BILL ANALYSIS:

PART I. OCCUPATIONAL LICENSING AND ADMINISTRATIVE PROCEDURES

EXEMPT CERTAIN ACTIVITIES FROM REQUIRING LICENSURE AS A BARBER OR COSMETOLOGIST

The practice of barbering is regulated by the North Carolina Board of Barber and Electrolysis Examiners, and involves the following practices: (i) cutting hair, or shaving or trimming beards; (ii) dyeing hair or applying hair tonics, permanent waving or marcelling hair; and (iii) giving facial or scalp massages, or treatments with oils, creams, lotions or other preparations either by hand or mechanical appliances. Current law exempts certain persons engaged in the proper discharge of their duties from having to become a licensed barber.

The practice of cosmetology is regulated by the North Carolina Board of Cosmetic Art Examiners, and involves the acts of arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching, coloring, or similar work upon the hair of a person by any means, including the use of hands, mechanical or electrical apparatus, or appliances or by use of cosmetic or chemical preparations or antiseptics. Current law exempts certain persons engaged in the proper discharge of their duties from having to become a licensed cosmetologist.

Section 3 would exempt persons who are employed by barbershops and whose duties are expressly confined to shampooing or blow drying of hair from having to become a licensed barber. These persons must still comply with the sanitary rules and regulations applicable to barbershops and other places where barber service is rendered.

This section would also exempt persons who are employed by cosmetic art shops whose duties are expressly confined to shampooing or blow drying of hair from having to become a licensed cosmetologist. These persons must still comply with the rules adopted by the Board of Cosmetic Art Examiners relating to sanitary management of cosmetic art shops.

INCREASE THE AMOUNT OF TRAINING REQUIRED FOR LICENSURE BY THE NORTH CAROLINA BOARD OF MASSAGE AND BODYWORK THERAPY

Under current law, 500 hours of in-class training are necessary for licensure as a massage therapist. Most massage schools in North Carolina require 650 hours for graduation even though State law only requires 500 hours for licensure. Due to a change in federal regulations effective July 1, 2024, federal financial aid will only be available for the number of education hours required for licensure in the State.

Section 4 would raise the number of in-class training hours required for licensure as a massage therapist to 650.

This section would be effective July 1, 2024, and apply to licenses issued on or after that date.

REPEAL THE RESIDENCY REQUIREMENT FOR ELECTROLOGISTS

Effective January 1, 2023, the State Board of Barber Examiners and the North Carolina Board of Electrolysis Examiners were merged into the North Carolina Board of Barber and Electrolysis Examiners (Board). Under current law, in order for a person to be licensed as an electrologist in North Carolina, the person must:

- Submit an application on a form approved by the Board.
- Be a resident of North Carolina.
- Be 21 years of age or older.
- Meet the education or experience requirements set in statute.
- Pass an examination given by the Board.
- Submit the application and examination fees required in G.S. 86B-70.

There is no residency requirement for a person to receive a license to practice barbering in North Carolina.

Section 5 would repeal the residency requirement for electrologists. An applicant for licensure would still have to meet the other requirements in current law.

AMEND EFFECTIVE DATES FOR RULES SUBMITTED TO THE CODIFIER OF RULES BY CERTAIN AGENCIES EXEMPT FROM THE STANDARD RULEMAKING PROCESS

Under current law, State agencies that are exempt from the standard rulemaking requirements under the Administrative Procedure Act, including the State Bar, are directed to submit new rules to the Codifier of Rules within 30 days after adoption. The Codifier of Rules must compile, make available for inspection, and publish these rules in the North Carolina Administrative Code.

Section 6 would provide that the rules adopted by State agencies that are exempt from the standard rulemaking requirements under the Administrative Procedure Act, including the State Bar, become effective on the first day of the month following submission to the Codifier of Rules for publication in the North Carolina Administrative Code.

FACILITATE THE ELIMINATION OF NONRESPONSIVE BOARDS, COMMITTEES, AND COMMISSIONS

Section 7 would direct the Legislative Library request documentation and confirmation of activity to all boards, committees, and commissions that have not expired or been repealed. The required documentation would include the current membership, last reported minutes, current bylaws, and a listing of the entities to which reports are to be submitted. For any board, committee, or commission that either (i) fails to

respond within 120 days to the Library's request or (ii) responds but has not met within the last year, the Library will add the board, committee, or commission to a list and will submit the final compiled list to the Joint Legislative Administrative Procedure Oversight Committee. The Committee would be directed to recommend legislation to repeal the boards, committees, and commissions on the list to the 2025 Regular Session of the 2025 General Assembly upon its convening.

PART II. ENERGY, ENVIRONMENT, NATURAL RESOURCES, AND UTILITIES

DELAY FISHERIES HARVEST REPORTING SYSTEM BY ONE YEAR

Section 6 of S.L. 2023-137 created a phased in reporting requirement for certain commercial and recreational fish harvests, to be managed by the Division of Marine Fisheries of the Department of Environmental Quality and the Wildlife Resources Commission. Pursuant to the act, violation of the reporting requirement would be punishable by a verbal warning starting December 1, 2024, punishable by a warning ticket starting December 1, 2025, and punishable by an infraction and $35 fine starting December 1, 2026.

Section 8 would delay the effective dates of the above punishments by one year.

INCREASE THE PUNISHMENT FOR PROPERTY CRIMES COMMITTED AGAINST CRITICAL INFRASTRUCTURE, INCLUDING PUBLIC WATER SUPPLIES, WASTEWATER TREATMENT FACILITIES, AND MANUFACTURING FACILITIES, AND TO MAKE CONFORMING CHANGES TO UPDATE STATUTES RELATING TO DAMAGE TO UTILITIES

In 2023, legislation was enacted to:

- Update and consolidate statutes that relate to damage to utility property (electric, gas, and telecommunications).
- Increase penalties for acts of damage to energy facilities.
- Increase the penalty for trespass to energy facilities, and add a specific prohibition on trespass to wastewater treatment facilities.
- Increase the penalty for willful injury to wires and other fixtures of telephone, broadband, broadcast, or cable telecommunications.

Section 9 would:

- Update the current statute governing contamination of a public water system to:
  - Add language prohibiting injury to a public water system.
  - Extend coverage under the statute to wastewater treatment facilities (in addition to public water systems).
  - Provide that violation of the statute is punishable as a Class C felony[1], and a fine of $250,000.
  - Authorize any person injured by reason of damage to a public water system or wastewater treatment system to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as

[1] Contamination of a public water system is currently punishable as a Class C felony. The presumptive range of punishment for a Class C felony, assuming no prior convictions, is incarceration for a period ranging between 58–73 months (see information on punishment for the various classes of felonies (and misdemeanors) here); the aggravated range of punishment is incarceration for a period range of 73-92 months.

an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.

- Update a statute included in the Public Utilities Chapter of the General Statutes governing willful injury to property of a public utility to:
    - Increase the punishment from a Class 1 misdemeanor to a Class C felony.
    - Authorize any person injured by reason of damage to property of a public utility to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.
- Create a new statute making it a Class C felony to knowingly and willfully destroy, injure, or otherwise damage, or attempt to destroy, injure, or otherwise damage, a manufacturing facility. A violation of the statute would also:
    - Be punishable by a fine of $250,000.
    - Authorize any person injured by reason of damage to a manufacturing facility to sue for and recover treble damages, punitive damages, costs, and attorneys' fees from the person who committed the violation, and any person who acts as an accessory before or after the fact, aids or abets, solicits, conspires, or lends material support to the violation.
- Exempt punitive damages that can be recovered from a person committing damage to a public water system, wastewater treatment facility, or manufacturing facility from the cap on such damages established under G.S. 1D-25 (three times the amount of compensatory damages or $250,000, whichever is greater).

This section would become effective December 1, 2024, and apply to offenses committed on or after that date.

PROHIBIT THE ACQUISITION OF QUARTZ MINING OPERATIONS AND LANDS CONTAINING HIGH PURITY QUARTZ BY FOREIGN GOVERNMENTS DESIGNATED AS ADVERSARIAL BY THE UNITED STATES DEPARTMENT OF COMMERCE

Section 10 would prohibit any state-controlled enterprise of, or the government of, a foreign nation that has been designated an adversarial foreign government by the United States Secretary of Commerce, from purchasing, acquiring, leasing, or holding any interest in either a quartz mining operation or land containing commercially valuable amounts of high purity quartz. Any transfer of an interest in land or a mining operation in violation of this section would be void. No individual who is not an adversarial foreign government would bear any civil or criminal liability for failing to determine or make inquiry of whether an individual or other entity is an adversarial foreign government.

Currently, the following foreign governments and foreign non-government persons have been found to be adversarial foreign governments:

- The People's Republic of China, including the Hong Kong Special Administrative Region (China).
- Republic of Cuba (Cuba).
- Islamic Republic of Iran (Iran).
- Democratic People's Republic of Korea (North Korea).
- Russian Federation (Russia).
- Venezuelan politician Nicolás Maduro (Maduro Regime).

This section would be effective when it becomes law and would apply only to ownership interests acquired on or after that date.

EXPAND REQUIREMENTS FOR ISSUANCE OF 401 CERTIFICATIONS BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROJECTS LOCATED AT AN EXISTING OR FORMER ELECTRIC GENERATING FACILITY

Under Section 401 of the Clean Water Act, a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a state where a discharge from the activity would originate issues or waives a Section 401 water quality certification, which concerns whether the discharge will comply with applicable water quality standards, effluent limitations, toxic pollutants restrictions and other appropriate water quality requirements under state and federal law. Section 401 provides that if a state "fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year)" after receipt of a certification request, the certification is deemed waived by the State. A state may not only waive, deny, or grant certification, but also grant certification with conditions.

Examples of permits for activities that trigger 401 certification requirements include:

- Clean Water Act Section 404 permits issued by the United States Army Corps of Engineers involving the discharge of dredged or fill material.
- Federal Energy Regulatory Commission (FERC) licenses for hydropower facilities and natural gas pipelines.

In 2023, legislation was enacted to establish statutory requirements for DEQ's handling of applications for 401 certifications for maintenance dredging projects partially funded by the Shallow Draft Navigation Channel Dredging and Aquatic Weed Fund and projects involving the **distribution or transmission** of energy or fuel, including natural gas, diesel, petroleum, or electricity, including requiring DEQ to:

- Within 30 days of filing of an application, determine whether or not the application is complete and notify the applicant accordingly; and, if the Department determines an application is incomplete, specify all such deficiencies in the notice to the applicant. If DEQ fails to issue a notice as to whether the application is complete within the requisite 30-day period, the application would be deemed complete.
- Within 5 days of the date the application is deemed complete, issue a public notice soliciting comment on the application. Within 60 days of the filing of a completed application, DEQ must either approve or deny the application. Failure of DEQ to act within the requisite 60-day period would result in a waiver of the certification requirement by the State, unless the applicant agrees, in writing, to an extension of time, not to exceed one year from the State's receipt of the application for certification. The 60-day review period established would constitute the "reasonable period of time" for State action on an application for purposes of federal law, absent a negotiated agreement with the United States Environmental Protection Agency (USEPA) to extend that timeframe for a period not to exceed one year.
- Issue a certification upon determining that the proposed discharge into navigable waters would comply with State water quality requirements. DEQ must include as conditions in a certification any applicable effluent limitations or other limitations necessary to assure the proposed discharges into navigable waters will comply with State water quality requirements. DEQ may not impose any other conditions in a certification.
- Deny a certification application only if DEQ determines that no reasonable conditions would provide assurance that the proposed discharges will comply with State water quality requirements and include in the denial a statement explaining the determination.

Section 11 would extend these requirements to electric generation projects located at an existing or former electric generating facility.

This section would be effective when it becomes law and apply to applications for 401 certification pending or submitted on or after that date.

PROHIBIT PUBLIC WATER AND SEWER SYSTEMS FROM IMPOSING UNAUTHORIZED CONDITIONS AND IMPLEMENTING PREFERENCE SYSTEMS FOR ALLOCATING SERVICE TO RESIDENTIAL DEVELOPMENT

Cities and counties may adopt zoning and development regulations as authorized under Chapter 160D of the General Statutes, subject to various limitations that include the following:

- G.S. 160D-702(b) prohibits cities and counties from regulating "building design elements"[2] for residential structures, with exceptions for safety regulations, floodplain management regulations, and regulations for structures that are historic sites or manufactured housing. Property owners may voluntarily consent to building design element requirements as part of obtaining a zoning amendment or zoning, subdivision, or development approval.
- G.S. 160D-702(c) prohibits cities and counties from adopting zoning or development regulations that: (1) set a minimum square footage requirement for residential structures; (2) require a parking space to be larger than 9 feet by 20 feet long unless the parking space is designed for handicap, parallel, or diagonal parking; or (3) require additional entrances into a residential subdivision that are not in compliance with the number of entrance requirements for residential subdivisions set forth in the North Carolina Fire Code.

Article 8, Chapter 162A of the General Statutes authorizes local government units to impose system development fees on new development within its territorial jurisdiction to fund certain capital costs attributable to that new development.

For purposes of this fee, "local government units" are counties, cities, sanitary districts, water and sewer authorities, metropolitan water districts, metropolitan sewerage districts, metropolitan water and sewerage districts, and county water and sewer districts.

Section 12 would prohibit local government units from requiring an applicant for water or sewer service for residential development to agree to any condition not otherwise authorized by law, or to accept any offer by the applicant to consent to any condition not otherwise authorized by law. These conditions would include, without limitation, any of the following:

- Payment of taxes, impact fees or other fees, or contributions to any fund.
- Adherence to any restrictions related to land development or land use, including those within the scope of G.S. 160D-702(c).
- Adherence to any restrictions related to building design elements within the scope of G.S. 160D-702(b).

[2] "Building design elements" include exterior building color; type, or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors; the number and type of rooms; and the interior layout of rooms. The phrase "building design elements" specifically excludes the height, bulk, orientation, or location of a structure on a zoning lot; the use of buffering or screening to minimize visual impacts or mitigate the impacts of light or noise; and regulations governing permitted uses of land.

This section would also prohibit local government units from implementing a scoring or preference system to allocate water or sewer service among applicants for water or sewer service for residential development that does any of the following:

- Includes consideration of building design elements, as defined in G.S. 160D-702(b).
- Sets a minimum square footage of any structures subject to regulation under the North Carolina Residential Code.
- Requires a parking space to be larger than 9 feet wide by 20 feet long unless the parking space is designated for handicap, parallel, or diagonal parking.
- Requires additional fire apparatus access roads into developments of one- or two-family dwellings that are not in compliance with the required number of fire apparatus access roads into developments of one- or two-family dwellings set forth in the Fire Code of the North Carolina Residential Code.

NATURAL GAS LOCAL DISTRIBUTION COMPANIES COST RECOVERY MODIFICATIONS

Section 13 would amend statutes governing cost recovery for natural gas local distribution companies to provide that the Utilities Commission may authorize a rate adjustment mechanism for a company's recovery of costs to produce, purchase, and transport natural gas, which may include gas derived from renewable energy biomass resources. For purposes of the provision, "renewable energy biomass" would include agricultural waste, animal waste, wood waste, spent pulping liquors, organic waste, combustible residues, combustible gases, energy crops, landfill methane, or domestic wastewater. The company would be prohibited, however, from recovering the incremental cost of natural gas attributable to renewable energy biomass resources that exceeds the average system cost of gas unattributable to renewable energy biomass resources.

REMOVE TIME LIMITS ON CERTAIN VUR GRANTS

The Viable Utility Reserve (VUR) is an account within the Water Infrastructure Fund established to receive appropriated State funds to be used for grants to local government units for any of the following purposes:

- Providing physical interconnection and extension of public water or wastewater infrastructure to provide regional service.
- Rehabilitating existing public water or wastewater infrastructure.
- Decentralizing an existing public water system or wastewater system into smaller viable parts.
- Funding a study of rates, asset inventory and management, or merger and regionalization options.
- Funding other options deemed feasible which result in local government units generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.
- Providing emergency grants for operating deficits if the Local Government Commission has exercised its powers under G.S. 159-181 to assume full or partial control over the affairs of the public water or wastewater system or of the local government unit or public authority that owns or operates the public water or wastewater system.

Under current law, emergency grants from the VUR for operating deficits to any single local government may not exceed $750,000 in any fiscal year and may not be awarded for more than three consecutive fiscal years.

Section 14 would allow emergency grants from the VUR to be awarded for more than three consecutive fiscal years.

EXEMPTION FROM STATE PARKS FEES FOR ELIGIBLE DISABLED VETERANS

The North Carolina State Parks Annual Pass program (Annual Pass Program) allows visitors to utilize equipment rentals, swimming, and more throughout the calendar year for a discounted package rate. The Annual Pass Program offers Seasonal Access Passes, Annual Passes, and Four-Wheel-Drive Beach Access Annual Passes. The Seasonal Access Pass allows unlimited admission of one vehicle at boat ramps and day-use areas at Falls Lake, Jordan Lake, and Kerr Lake State Recreation Areas. The Annual Pass covers admission fees at Falls Lake, Jordan Lake, and Kerr Lake, plus boat rentals and swim passes for up to six people at numerous State parks, boat launches at Carolina Beach and Hammocks Beach State parks, and ferry tickets for six people at Hammocks Beach State Park. The Four-Wheel-Drive Beach Access Annual Pass offers the same benefits as the Annual Pass, plus access to the four-wheel-drive beach at Fort Fisher State Recreation Area. Without a Four-Wheel-Drive Beach Access Annual pass, a day pass costs $20 per day on weekdays and $30 per day on weekends.

Section 15 would allow a disabled veteran of any branch of the Armed Forces of the United States to apply for a pass from the Annual Pass Program in a form prescribed by the Division of Parks and Recreation (Division) of the Department of Natural and Cultural Resources (DNCR) and receive any pass included within the Annual Pass Program for no fee. A disabled veteran would have to provide to the Division a copy of the veteran's disability certification from the U.S. Department of Veterans Affairs or evidence of benefits received under 38 U.S.C. § 2101.

DNCR would be directed to adopt rules necessary to implement this section.

AMEND STATUTES AND RULES APPLICABLE TO DOCK, PIER, AND WALKWAY REPLACEMENT IN THE COASTAL AREA

15A NCAC 07J .0210 (Replacement of Existing Structures) currently provides that:

- "Replacement" of structures damaged or destroyed by natural elements, fire or normal deterioration is considered development and requires CAMA permits.
- "Repair" of structures damaged by natural elements, fire or normal deterioration is not considered development and shall not require CAMA permits.

Under the rules proposed work is considered "replacement" if:

- It enlarges the existing structure in any dimension.
- In the case of fixed docks and piers, more than 50 percent of the framing and structural components (beams, girders, joists, stringers, or pilings) must be rebuilt in order to restore the structure to its pre-damage condition.

Section 15.1 would:

- Require the Coastal Resources Commission to revise the CAMA rules to provide that for certain fixed docks, piers, or walkways damaged or destroyed by natural elements, fire, or normal deterioration, activity to rebuild the dock, pier, or walkway to its pre-damage condition shall be considered repair of the structure, and shall not require CAMA permits, without regard to the

percentage of framing and structural components required to be rebuilt. At the time a dock, pier, or walkway damaged or destroyed by natural elements, fire, or normal deterioration is repaired, the width and length of the dock, pier, or walkway structure may be enlarged by not more than five feet or five percent, whichever is less, and the structure may be heightened, without need for a CAMA permit. These changes would not, however, apply to docks and piers: (i) greater than six feet in width; (ii) greater than 800 square feet of platform area; or (iii) that are adjacent to a federal navigation channel.

- Require local building inspection departments to, not later than 60 days after an inspection of a dock, pier, or catwalk or walkway that has been replaced in the coastal area, notify the Division of Coastal Management of the replacement.
- Prohibit the North Carolina Residential Building Code from requiring a professional engineer or architect to design or otherwise certify the construction of residential docks, piers, or catwalks or walkways.

AUTHORIZE ESTABLISHMENT OF A MEASUREMENT LINE FOR DUNE BUILDING PROJECTS CONDUCTED PURSUANT TO PERMITTED TERMINAL GROIN CONSTRUCTION

Under the rules adopted pursuant to the Coastal Area Management Act the setback for development is typically measured in a landward direction from the vegetation line, which is defined in part as:

> "The vegetation line refers to the first line of stable and natural vegetation, which shall be used as the reference point for measuring oceanfront setbacks. This line represents the boundary between the normal dry-sand beach, which is subject to constant flux due to waves, tides, storms and wind, and the more stable upland areas. The vegetation line is generally located at or immediately oceanward of the seaward toe of the frontal dune or erosion escarpment."

The rules, however, authorize the Division of Coastal Management to establish a "measurement line" in cases where a storm causes overwash or a loss of vegetation so that not enough vegetation exists to determine oceanfront setbacks. This line is located by using the most current pre-storm aerial photography to map the pre-storm vegetation line, and then moving it landward a distance equal to the average width of the beach recession caused by the storm. Measurement lines are generally temporary until the vegetation is re-established to the point where it can once again be used for determining oceanfront setbacks but may also be permanently designated by the CRC.

Section 16 would authorize the Coastal Resources Commission to, for the purpose of a dune building and beach planting project, authorize local governments that have received a permit to construct a terminal groin to establish a measurement line that represents the location of the first line of stable and natural vegetation that is covered by the dune building and beach planting project. The measurement line must be: (i) established in coordination with the Division of Coastal Management using on-ground observation and survey or aerial imagery for all areas of oceanfront that undergo dune building and beach planting project; and (ii) applicable for a period of no less than two years from the completion of the dune building and beach planting project. The CRC would be directed to amend their rules for this purpose (but implement the policy, prior to an amended rule becoming effective, once the provision becomes law.

DEQ would be directed to submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. This subsection would become effective on the later of:

- September 1, 2024.
- The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

EXCLUDE AQUACULTURE FROM THE DEFINITION OF "DEVELOPMENT" FOR PURPOSES OF CAMA AND LIMIT THE AUTHORITY OF THE MARINE FISHERIES COMMISSION TO ADOPT RULES REGULATING AQUACULTURE EQUIPMENT

The Coastal Area Management Act (CAMA) requires a person to obtain a permit from the Division of Coastal Management before engaging in development in an area of environmental concern in the 20 coastal counties.

The use of land for the purposes of planting, growing, or harvesting plants, crops, trees, or other agricultural or forestry products is generally excluded from the definition of "development."

Section 16.1(a) would provide that "development" does not include placement of a floating structure used primarily for aquaculture and associated with an active shellfish cultivation lease area or franchise. This section would also clarify that the use of any land for uses related to aquaculture and aquaculture facilities associated with an active shellfish cultivation lease area or franchise is also excluded from the definition of "development."

DEQ would be directed to submit to the United States National Oceanic and Atmospheric Administration (NOAA) for approval these proposed changes. This subsection would become effective on the later of:

- October 1, 2024.
- The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

The Marine Fisheries Commission (MFC) is generally directed to "adopt rules to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources within its jurisdiction."

Section 16.1(b) would provide that the MFC would not have the authority to adopt rules regulating cages, poles, anchoring systems, or any above-water frames or structural supports used to suspend or hold in place equipment or floating structures used for aquaculture.

AUTHORIZE REPLACEMENT OF CERTAIN EROSION CONTROL STRUCTURES

The Coastal Area Management Act generally prohibits construction of permanent erosion control structures in an ocean shoreline. The applicable statute does, however, authorize the Coastal Resources Commission (CRC) to, among other things: (i) renew a permit for a permanent erosion control structure originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995; and (ii) issue no more than six permits for the construction of a terminal groin.

Section 16.1A would:

- Make several changes to the definition of "terminal groin" to include a structure constructed: (i) where the ocean shoreline converges with Frying Pan Shoals; (ii) to protect the terminus of the island from shoreline erosion "**or**" inlet migration (existing law provides **"and"**); (iii) that allows sand moving in the littoral zone to flow "around, over, or through" the structure (existing law provides that sand "flow past").
- Require the CRC to permit replacement of a permanent erosion control structure originally permitted pursuant to a variance granted by the Commission prior to July 1, 1995, consisting of a field of geotextile sand tubes, the field of geotextile sand tubes with rock erosion control structures subject to the following criteria:

- The number of rock erosion control structures must be equal to or less than the number of geotextile sand tubes originally permitted.
- The structure(s) or field of structures may consist of groins, including T head or lollipop groins, or breakwaters to be approved by the Division of Coastal Management, in its discretion, or by variance from the Coastal Resources Commission.
- The structure field may not be enlarged beyond the alongshore dimensions authorized under the original permit, and the aggregate overall length of the rock structures may not exceed the aggregate overall length of the geotextile sand tubes authorized under the original permit.
- The plans for the work must be sealed by a professional engineer licensed to practice pursuant to Chapter 89C of the General Statutes with experience in engineering in the coastal area.

The language provides that such a permanent erosion control structure is not a terminal groin, and subject to requirements for terminal groins elsewhere in the statute.

- Would increase the number of permits for the construction of terminal groins the CRC may issue from six to seven.

DEQ would be directed to submit this change to the United States National Oceanic and Atmospheric Administration (NOAA) for approval. This subsection would become effective on the later of:

- October 1, 2024.
- The first day of a month that is 60 days after the Secretary of DEQ certifies to the Revisor of Statutes that NOAA has approved the changes.

PART III. STATE GOVERNMENT

EXEMPT CERTAIN FOOD SERVICE ESTABLISHMENTS FROM SEPTAGE MANAGEMENT FIRM PERMITTING REQUIREMENTS

Septage management firms must obtain a permit from the Department of Environmental Quality before commencing or continuing operation. A "septage management firm" is defined in statute as "a person engaged in the business of pumping, transporting, storing, treating, or disposing septage." This definition does not include public or community wastewater systems that treat or dispose septage.

Section 17 would provide that food service establishments not involved in pumping or vacuuming a grease appurtenance do not have to obtain a septage management firm permit.

AMEND OUTDOOR GRILL EXEMPTION FOR FOOD ESTABLISHMENTS TO INCLUDE ADDITIONAL COOKING SURFACES

S.L. 2017-18 authorized food establishments to use outdoor grills for food preparation, provided that certain criteria were met. To be eligible for use in food preparation, the outdoor grill must have a cooking surface of stainless steel or cast iron and must be located in an enclosed area and protected from environmental contamination when not in operation.

Section 18 would authorize the use of outdoor grills with stone surfaces, or any surface similar to stainless steel, cast iron, or stone, that complies with the North Carolina Food Code, as well as remove the

requirement that the outdoor grill be located in an enclosed area. The requirement that the outdoor grill be protected from environmental contamination when not in use would remain.

CLARIFY MINIMUM AGE FOR ESCORT VEHICLE DRIVERS, ALLOW THIRD PARTY TRAINING AND CERTIFICATION, AND CREATE ADDITIONAL REQUIREMENTS FOR ESCORT VEHICLES

The Department of Transportation (DOT) is required to issue rules regulating escort vehicles that accompany vehicles carrying oversized or overweight loads. The statute requires that DOT issue certifications to drive escort vehicles and prohibit anyone from operating an escort vehicle without a certification. As part of the escort vehicle program, DOT has created a certification program that includes application standards and training requirements.

Section 19 would do all the following:

(1) Provide that the minimum age to obtain an escort vehicle certification cannot be higher than 18 years and prohibit any requirement that an escort vehicle driver have a commercial drivers license.
(2) Allow anyone with a commercial drivers license to take an escort vehicle certification examination without completing any other training.
(3) Authorize third parties to train and certify escort drivers pursuant to DOT's published rules for certifying escort drivers.
(4) Set certain size, lighting, and operation requirements for escort vehicles.

AUTHORIZE DEPARTMENT TO UTILIZE CONTRACT METHODOLOGY FLEXIBILITY FOR NEVI FORMULA PROGRAM PROJECTS

Various State and federal laws outline construction methodologies which are appropriately utilized by the Department of Transportation (DOT) for the purposes of administering/implementing federal programs and those funds which are available to states.

Section 19.1 would authorize DOT to utilize various contracting methodologies authorized by applicable federal law to administer National Electric Vehicle Infrastructure (NEVI) Formula Program projects and would further specify those projects would not count against any State level DOT project contract award authorization caps limiting the use of certain construction methodologies.

DIVISION OF MOTOR VEHICLES MODERNIZATION

Section 11 of S.L. 2021-134 authorized DOT to enter into up to five contracts for information technology (IT) projects for Division of Motor Vehicles (DMV) system modernization, which are exempt from Department of Information Technology (DIT) oversight and requirements. The provision requires DOT to notify DIT of the nature and scope of any project undertaken pursuant to the exemption and to report to the General Assembly within 30 days of entering into a contract for a project undertaken pursuant to the exemption.

Section 19.2 would repeal the exemption created by Section 11 of S.L. 2021-134 and would require DOT to allow any contract entered into pursuant to the exemption to expire and not renew those contracts. This section would also require DIT, in consultation with DMV, to contract with a third-party organization to evaluate DMV's ongoing efforts to modernize its IT systems. The evaluation must be completed and reported to the General Assembly by January 31, 2025. By May 1, 2025, DMV, in consultation with DIT, would be required to select a vendor to oversee and manage implementation of a cloud-based operating

system. The vendor, in consultation with DMV and DIT, would then be required to report quarterly on the status of DMV's modernization efforts.

NORTH CAROLINA RAILROAD BOARD OF DIRECTORS AND RELATED CLARIFICATIONS

Section 7.1 of S.L. 2023-136 would have amended appointments to the 13-person North Carolina Railroad Board of Directors by decreasing the number of appointments by the Governor from seven to six and giving the State Treasurer one appointment. The General Assembly would continue to appoint six members, three upon recommendation of the Speaker of the House of Representatives and three upon recommendation of the President Pro Tempore of the Senate. The Treasurer's appointee would replace a Governor's appointee with a term expiring in 2023. The provision was to become effective on the date that revisions to the Articles of Incorporation to implement the changes were enacted by the Board of Directors. The railroad was directed to report to the Revisor of Statutes the effective date of the changes. However, the Board has not acted, and the provision has not become effective, so the Board continues to have seven Governor's appointments and six General Assembly appointments.

Section 19.3 would repeal the change in appointments made by Section 7.1 of S.L. 2023-136. It would also amend the appointments to the Board by decreasing the number of appointments by the Governor from seven to six and making one member of the Board the Commissioner of Agriculture or the Commissioner's designee. This section would be effective when it becomes law, and the Commissioner or the Commissioner's designee would replace a Governor's appointee with a term that began in 2023.

AUTHORIZE RAIL TRANSPORTATION CORRIDOR AUTHORITY

Section 19.4 would authorize the creation of Rail Transportation Corridor Authorities within this State and outline authorities/requirements for public hearings, acquisition/disposition of real property, etc. A Rail Transportation Corridor Authority may be created for areas, at the time of creating the Authority, that meet the following criteria:

- The area consists of three or more contiguous counties each containing portions of an existing rail corridor and meeting certain population requirements.
- The distance between the rail corridor milepost origination and termination points is no more than 25 miles in length.
- If the Authority intends to receive existing rail corridor interests in property, those rail property interests can be transferred to the Authority without purchase of those rail corridor interests in property.
- An Authority shall not have jurisdiction over any Class I railroad, as that term is defined under 49 U.S.C. § 20102 and 49 C.F.R. § 1201.1 1, nor a rail line or rail corridor owned or operated by the United States Department of Defense, nor a rail line owned or operated by the North Carolina Railroad or its subsidiaries.

DELAY SUNSET FOR CERTAIN DESIGN-BUILD CONTRACTS USING FEDERAL FUNDS
Section 1.6 of S.L. 2021-189 (the 2021 Budget Technical Corrections bill) directed local governments that contract for design-build services using federal funds subject to certain federal procurement standards to comply with certain State procurement procedures. This section is set to expire on December 31, 2025.

Section 21 would delay the sunset to December 31, 2027.

PART IV. MISCELLANEOUS

REQUIRE AN ADDITIONAL MEANS OF NOTICE TO ADVERTISE PROPERTY TAX LIENS IN ADDITION TO THOSE CURRENTLY REQUIRED BY LAW
Tax collectors are required to post notices of tax liens in specific locations. County tax collectors must post a notice of a new tax lien at the county courthouse and at least once in a newspaper that circulates in the taxing district. Municipal tax collectors must post a notice of a new tax lien at the city or town hall and at least once in a newspaper that circulates in the taxing district. Currently, advertisements of tax liens must be posted between March 1 and June 30 of each year.

Failure to post the notice in accordance with G.S. 105-369(c) does not affect the validity of the tax or the tax lien.

Section 22 would require tax collectors to also post a notice of the tax lien in a conspicuous place on the taxed parcel.

This section would become effective for taxes imposed for taxable years on or after January 1, 2025.

DELIVERY OF PERMITS ISSUED BY STATE AGENCIES
Section 22.1 would require each executive branch, county, and city agency to establish a policy to send any permits issued by the agency using one or more of the following methods instead of requiring the permittee to receive in person delivery at an office or physical location:

- By United States Mail or a designated delivery service authorized under 26 U.S.C. 7502(f)(2). The agency may charge for the costs of delivery.
- By electronic mail, if appropriate, with the permittee's consent.

A permittee would be permitted to receive a permit in person if the agency offers in-person pick up but would not be required to do so. An agency would not be restricted from adopting policies to exercise due diligence in verifying a permittee's identity. Moreover, these changes are not intended to change the application process for any permit. These provisions would not apply to concealed handgun permits. Each executive branch, county, and city agency would be required to adopt a policy no later than September 1, 2024.

CLARIFY PROHIBITION ON COUNTIES AND CITIES ENACTING AND ENFORCING CERTAIN ORDINANCES, RULES, AND REGULATIONS RELATED TO BATTERY-CHARGED SECURITY FENCES

Counties and cities are prohibited from adopting any ordinance or other rule that does any of the following:

- Requires a permit, fee, review, or any other kind of approval for a property owner to install a battery-charged security fence (unless that fence is also an alarm-system subject to regulation under G.S. 74D-11(c)).
- Imposes any installation or operation requirement for battery-charged security fences greater than regulations found in State law.
- Prohibits the installation of battery-charged security fences in property zoned for nonresidential usage.

Section 22.5 would amend the prohibition to prevent a county or city from enforcing any ordinances or rules adopted before prohibition became law in S.L. 2023-137. It would also clarify that cities are only preempted from adopting battery-charged fence ordinances that bind property that is zoned "exclusively" for nonresidential usage, and change the height requirements for battery-charged security fences from "up to 10 feet" to "exactly 10 feet."

ADVANCED AIR MOBILITY RADAR SYSTEMS

Article 10 of Chapter 63 regulates the operation of unmanned aircraft systems (commonly, "drones") in the State. Among other things, the Article requires a permit for the commercial operation of drones within the State.

Section 23 would create a framework for local governments to plan for and regulate the siting, installation, modification, maintenance, and removal of advanced air mobility radar ("radar") for traffic control of unmanned aircraft systems. Local governments would be required to require permit applications for the construction of radar and approve or deny the permits based on whether certain criteria are met, and would be directed to consider the collocation of radar on property owned by the local government.

This section would become effective October 1, 2024.

RECONSTRUCTION/REMOVAL OF ON-PREMISES ADVERTISING SIGNS

Chapter 160D of the General Statutes contains the procedures cities and counties utilize for development approvals under their planning and development regulations. G.S. 160D-912 authorizes cities and counties to regulate, with limitation, *off-premises* outdoor advertising and require their removal if they are nonconforming. No ordinance can require removal of *off-premises* outdoor advertising unless monetary compensation is paid to the owner of the nonconforming sign. Monetary compensation is the fair market value of the *off-premises* outdoor advertising in place immediately prior to its removal and without consideration of the effect of the ordinance or any diminution in value caused by the ordinance requiring its removal and is determined by certain statutory factors. Payment of monetary compensation for removal of non-conforming *off-premises* outdoor advertising is not required where:

- The local government and sign owner enter into a relocation agreement.
- The local government and sign owner enter into an agreement allowing the sign to remain in place for a fixed period.
- The sign is a public nuisance or is detrimental to the public health or safety.

- Removal is required for a street or sidewalk project, or public enterprise construction and the sign is relocated.
- Removal is required under statutes, ordinances, or regulations generally applicable to the demolition or removal of damaged structures.

There are no specific provisions in Chapter 160D of the General Statutes that regulate *on-premises* outdoor advertising.

Section 23.1 would provide that, notwithstanding any local development regulation to the contrary, a lawfully erected on-premises advertising sign can be relocated or reconstructed within the same parcel if the square footage of the sign does not increase, and the sign complies with local development regulations in place when the sign was erected. Construction on the sign would have to begin within two years of removal.

This section would further provide that a local government could not require removal of a lawfully erected nonconforming on-premises advertising sign unless the local government pays monetary compensation to the sign owner. Upon payment of monetary compensation, it would be the local government's responsibility to remove the sign in a timely manner. Monetary compensation would be the sum of the following:

1. The greater of the fair market value of the nonconforming on-premises advertising sign immediately prior to its removal or the diminution in value of the real estate from the sign's removal.
2. The cost of a new on-premises advertising sign that conforms to local development regulations.

This section would be effective when it becomes law and apply to on-premises advertising signs removed on or after October 1, 2021. For any on-premises advertising sign removed on or after October 1, 2021, but prior to the date this section becomes effective, construction work on relocation in accordance with G.S. 160D-912.1(b), as enacted by this section, shall commence within two years of the date this section becomes effective.

ALLOW A SELLER OF A MANUFACTURED SIGN TO REPOSSESS THE SIGN IF THE BUYER FAILS TO PAY

G.S. 25-2-703 identifies remedies for sellers if the buyer wrongfully rejects or revokes acceptance of goods, fails to make a payment due on or before delivery, or repudiates with respect to a part or the whole. In these situations, the seller can take actions that include the following:

- Withhold delivery of the goods
- Stop delivery
- Resell and recover damages
- Recover damages for nonacceptance
- Cancel

If the good has a security interest, G.S. 25-9-609 allows a secured party, after default, to take possession of the collateral and without removal, render equipment unusable and dispose of collateral on a debtor's premises. These actions can be taken without judicial process if the secured party does so without breaching the peace.

Additionally, if the goods have already been delivered to the buyer and the buyer fails to make a payment due, the seller can file an action for breach of contract.

Section 23.5 would allow a seller to repossess a manufactured sign, even if the sign is affixed to real property, if the following criteria are met:

- The buyer fails to make a payment in violation of a contract with the seller.
- The seller does not breach the peace.

The seller could still exercise any other lawful remedy.

This section would effective October 1, 2024.

REQUIRE TRANSPARENCY IN THE SALE OR RESALE OF TICKETS TO AN ENTERTAINMENT EVENT

G.S. 75-1.1 provides that unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting commerce, are unlawful. The Attorney General may institute a civil suit for violation of G.S. 75-1.1 and knowing violations are punishable by a civil penalty of up to $5,000 per violation. Additionally, individuals harmed by unfair trade practices have a private right of action and may recover treble damages.

Section 24 would require a secondary ticket exchange, ticket issuer, or reseller to meet the following requirements when listing a ticket for sale or resale:

- When the price of the ticket is displayed to the purchaser, the listing must clearly and conspicuously disclose the total price of the ticket, including all mandatory fees and the maximum order processing fee, if any.
- The total price of the ticket displayed at the beginning of the ticketing session must not increase during the ticketing session, except by the addition of the following, which are not mandatory and must be disclosed to the purchaser:
    - Actual charges required to deliver a non-electronic ticket to the address specified by the purchaser by the delivery method designated by the purchaser.
    - Taxes or fees imposed on the transaction by any government.
    - A reasonable fee for processing the order.
- The listing must clearly and conspicuously disclose to the purchaser the existence and actual dollar amount of each mandatory fee, if any, prior to the completion of the transaction. The descriptor used to identify each mandatory fee must not be deceptive or misleading.

A violation of this section would be an unfair trade practice under G.S. 75-1.1.

This section would become effective January 1, 2025, and would apply to tickets listed for sale or resale on or after that date.

TECHNICAL CORRECTION TO SESSION LAW 2023-112 CONCERNING THE WINSTON-SALEM CIVIL REVIEW BOARD

Sections 9 and 10 of S.L. 2023-112 created Civil Review Boards in Greensboro and Winston-Salem, respectively. The law contains a provision which allowed certain individuals to ask for a hearing before the board by complying with the statutory procedures.

Section 25 would restore erroneously deleted language in the Winston-Salem Civil Review Board language concerning the time for which an individual must request a Board hearing.

TECHNICAL CORRECTION TO RESTORE DELETED LANGUAGE CONCERNING FORCED CONNECTION OF COUNTY SEWER, ORIGINALLY ENACTED IN S.L. 2023-90 AND S.L. 2023-108

Section 10 of S.L. 2023-90, effective July 10, 2023, and Section 12 of S.L. 2023-108, effective August 16, 2023, both enacted provisions prohibiting the forced connection of sewer in certain circumstances by cities and counties. The language in S.L. 2023-108 concerning the city prohibition, however, was an outdated version of the language. Section 50 of S.L. 2023-137, effective October 10, 2023, deleted the outdated language in S.L. 2023-108, but also inadvertently deleted the correct language concerning the county prohibition.

Section 26 would restore the inadvertently deleted language prohibiting counties from requiring the forced connection to county sewer in certain circumstances.

COAL COMBUSTION RESIDUAL REPORT REVISION

The Department of Health and Human Servies (DHHS) is required to submit quarterly reports to the Environmental Review Commission on its activities with respect to coal combustion residual impoundments. DHHS is also required to submit annual reports to members of the General Assembly that have coal combustion residual impoundments within their district.

Section 27 would move the required DHHS report on coal combustion residual impoundments from quarterly to annually, before October 1st each year, and would authorize DHHS to combine that report with its annual report to members of the General Assembly whose district contains a coal combustion residual impoundment.

REQUIRE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO REPORT QUARTERLY ON APPLICATIONS FOR PERMITS REQUIRED FOR NATURAL GAS PIPELINES AND GAS-FIRED ELECTRIC GENERATION FACILITIES

Section 28 would require the Department of Environmental Quality to report quarterly to the Joint Legislative Commission on Energy Policy on: any applications received for permits required for siting or operation of natural gas pipelines and gas-fired electric generation facilities within the State; and, activities of DEQ to process such applications, including tracking of processing times.

This section would be effective when it becomes law and apply to applications for permits for natural gas pipelines and gas-fired electric generation facilities pending on or received on or after that date. DEQ must submit the initial report due no later than October 1, 2024.

COMBINE STORMWATER GRANT REPORT WITH WATER INFRASTRUCTURE REPORTS

The Department of Environmental Quality (DEQ) is required to report to the General Assembly annually on the accounts in its Water Infrastructure Fund (Fund), including the beginning and ending balance, grants and loans awarded from the Fund, and other related information.

The State Water Infrastructure Authority within DEQ is required to report to the General Assembly annually on its activities in awarding loans and the use of funds, as well as any legislative proposals. This report can be submitted jointly with the annual report due pursuant to G.S. 159G-26. This joint report is due November 1 of each year.

Section 12.14 of S.L. 2021-180 created the Local Assistance for Stormwater Infrastructure Fund (Stormwater Fund) as a special fund within DEQ to fund certain stormwater infrastructure projects, and required DEQ to report annually, no later than September 1, on the projects and activities funded by the Stormwater Fund.

Section 29 would allow DEQ to submit its required annual report on the Stormwater Fund along with the other required water infrastructure reports, as a single report, and would move the report date for the Stormwater Fund report to November 1.

REQUIRE ANNUAL RIVER BASIN ADVISORY COMMISSION REPORT ONLY IN YEARS WHEN THE COMMISSION MEETS

The General Assembly has established the following river basin advisory commissions: the Roanoke River Basin Bi-State Commission, the Catawba/Wateree River Basin Advisory Commission, and the Yadkin/Pee Dee River Basin Advisory Commission. These river basin advisory commissions were primarily established to provide a forum for discussing issues related to water and other natural resources, and to provide guidance and recommendations regarding the use, stewardship, and enhancement of natural resources for the purposes of integrated river basin management.

Under current law, these three river basin advisory commissions must submit an annual report by October 1 each year to both the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources and the Fiscal Research Division.

Section 30 would change the reporting requirement for these three river basin advisory commissions. Instead of being required to submit an annual report each year, a river basin advisory commission would only be required to submit an annual report for those years in which it meets.

ELIMINATE ANNUAL REPORT ON STATE EMPLOYEES WHO HAVE BEEN FIRST RECIPIENTS

The Director of the Budget is required to report to the General Assembly on the number of State employees who have received assistance from the Work First Program in the prior calendar year. The Work First Program, within the Department of Health and Human Services, provides financial assistance to qualified families to help them achieve self-sufficiency. The maximum net family annual income eligibility standards for Work First Family Assistance range from $4,344 for a family of one to $9,256 for a family of eight.

Section 31 would eliminate the requirement that the Director of the Budget annually report the number of State employees who are Work First Program recipients.

ELIMINATE CONNECT NC BOND REPORT

S.L. 2015-280 authorized the issuance of $2,000,000 of general obligation bond debt to provide funding for: (i) projects for the UNC System, (ii) projects for the NC Community Colleges system, (iii) matching grants to local governments for parks for children with disabilities and veterans with disabilities, (iv) the Department of Environmental Quality to provide grants and loans for water and sewer improvement, (v) capital improvements for certain National Guard readiness centers, (vi) a new Plant Sciences Building for a partnership between the Department of Agriculture and Consumer Services (DACS) and NC State University, (vii) construction of a new Veterinary/Food/Drug//Motor Fuels Lab for DACS, (viii) replacing the Africa Pavilion at the NC Zoo, (ix) State Parks, and (x) the Department of Public Safety for the Samarcand Training Academy.

All entities receiving proceeds from the Connect NC Bonds are required to report quarterly to the Joint Legislative Committee on Capital Improvements. Since the issuance of these bonds, the projects have either been completed or are now funded through a State Capital Infrastructure Fund grant.

Section 32 would eliminate the NC Connect Bond reporting requirement.

EFFECTIVE DATE: Unless otherwise specified, this act would become effective when law.

Wendy Ray and Nicholas Giddings, Legislative Analysis Division Staff Attorneys, and Bryson Penley, LAD Intern, substantially contributed to this summary.