

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 342
HOUSE BILL 1124

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

The General Assembly of North Carolina enacts:

Section 1. G.S. 74-53(3) reads as rewritten:

"(3) ~~In open cast~~ At open pit mining operations, all overburden and spoil shall be left in a configuration which is in accordance with accepted conservation practices and which is suitable for the proposed subsequent use of the land."

Sec. 2. G.S. 104E-8(c)(6) reads as rewritten:

"(6) The Division of Radiation Protection of the ~~Department [of] Environment, Health, and Natural [Resources];~~ Department;".

Sec. 3. G.S. 104E-8(g) reads as rewritten:

"(g) All clerical and other services required by the Commission shall be supplied by the ~~Secretary of Environment, Health, and Natural [Resources];~~ Secretary."

Sec. 4. G.S. 115C-323 is amended by deleting the phrase "Secretary of Human Resources" and substituting "Secretary of Environment, Health, and Natural Resources".

Sec. 5. G.S. 120-70.33(3) reads as rewritten:

"(3) To evaluate actions of the Governor's Waste Management Board, the Radiation Protection Commission, and the ~~Radiation Protection Section of the Department of Human Resources;~~ Division of Radiation Protection of the Department of Environment, Health, and Natural Resources, and of any other board, commission, department, or agency of the State or local government as such actions relate to low-level radioactive waste management;"

Sec. 6. G.S. 130A-11 reads as rewritten:

"§ 130A-11. Residencies in public health.

The Department shall establish a residency program designed to attract ~~physicians and~~ dentists into the field of public health and to train them in the specialty of public health practice. The program shall include practical experience in public health principles and practices."

Sec. 7. G.S. 130A-290(b) is amended by deleting the citation "G.S.130A-309.17" and substituting "G.S. 130A-309.24".

Sec. 8. G.S. 130A-310.5(c) reads as rewritten:

"(c) The cost of any action by the Secretary pursuant to this section may be paid from the Inactive Hazardous Sites Cleanup Fund, or the ~~Emergency Hazardous Waste Site Remedial Fund~~ [~~Emergency Response Fund~~] Emergency Response Fund established pursuant to G.S. 130A-306, subject to a later action for reimbursement pursuant to G.S. 130A-310.7."

Sec. 9. G.S. 143-214.5(g) reads as rewritten:

"(g) Civil Penalties. – A local government which fails to adopt a local water supply watershed protection program as required by this section shall be subject to a civil penalty pursuant to G.S. ~~143-215.6(a)(5)~~-143-215.6A(e). In any area of the State which is not covered by an approved local water supply watershed protection program, any person who violates or fails to act in accordance with any statewide minimum management requirement established pursuant to this section shall be subject to a civil penalty as specified in G.S. ~~143-215.6(a)(1)g~~-143-215.6A(a)(7)."

Sec. 10. G.S. 143-215.36(b)(4) reads as rewritten:

"(4) ~~If the person assessed fails to pay the amount of the assessment to the Department within 30 days after receipt of notice, the Commission may request the Attorney General to institute a civil action in the superior court of the county or counties in which the person assessed resides or has his or its principal place of business, to recover the amount of the assessment.~~—The Secretary shall notify any person assessed a civil penalty of the assessment and the specific reasons therefor by registered or certified mail, or by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed within 30 days of receipt of the notice of assessment."

Sec. 11. G.S. 143-215.36(b)(7) reads as rewritten:

"(7) The Secretary may delegate his powers and duties under this section to the Director of the Division of ~~Environmental Management~~ Land Resources of the Department."

Sec. 12. G.S. 143-215.45 reads as rewritten:

"§ 143-215.45. Transfer of right of withdrawal.

A person with a right of withdrawal may assign or transfer it in whole or in part to another, subject to those rights of reassignment or transfer by the State specified in G.S. ~~143-354(11)~~-143-354(a)(11). A person who has a right of withdrawal of excess volume of water by virtue of an assignment or transfer has an interest in water superior to other interests only to the extent that his withdrawal is in accordance with the terms of the assignment or transfer."

Sec. 13. G.S. 143-215.94EE(b) reads as rewritten:

"(b) Any unexplained discharge of oil, natural gas or drilling wastes occurring in waters beyond the jurisdiction of the State that for any reason penetrates within State jurisdiction shall be removed by or under the direction of the Department. Except for any expenses incurred by the responsible person, should such person become known, all expenses incurred in the removal of such discharges shall be paid promptly by the State from the ~~'Oil and Oil or Other Hazardous Substances Pollution Protection Fund'~~ Fund established pursuant to G.S. 143-215.87 or from any other available sources. In the case

of unexplained discharges, the matter shall be referred by the Secretary to the North Carolina Attorney General for collection of damages pursuant to G.S. 143-215.94FF of this Part. At his discretion, the Attorney General may refer the matter to the State Bureau of Investigation or other appropriate State or federal authority to determine the identity of the responsible person."

Sec. 14. G.S. 143-215.94II(d) reads as rewritten:

"(d) In addition to the powers enumerated in G.S. 14-288.15, in the case of such an emergency described in subsection (a) of this section, the Governor is further authorized and empowered to transfer any funds available to him by statute for emergency use into the ~~'Oil and Oil or Other Hazardous Substances Pollution Protection Fund'~~ Fund created pursuant to G.S. 143-215.87, to be utilized for the purposes specified therein."

Sec. 15. (a) G.S. 143-350 reads as rewritten:

"§ 143-350. Definitions.

~~Definitions as~~ As used in this Article:

(1) ~~'Environmental Management Commission'~~ 'Commission' means the Environmental Management ~~Commission created by G.S. 143B-282.~~ Commission.

(2) 'Department' means the Department of Environment, Health, and Natural ~~Resources created by G.S. 143-212.~~ Resources."

(b) The Revisor of Statutes shall delete the phrase "Environmental Management Commission" wherever it occurs in Article 38 of Chapter 143 of the General Statutes and substitute the word "Commission".

Sec. 16. (a) The first sentence of Section 31 of Chapter 1004 of the 1989 Session Laws (1990 Regular Session) is amended by deleting "143-279.3" and substituting "143B-279.3".

(b) G.S. 143B-279.3(b)(18), as amended by Section 31 of Chapter 1004 of the 1989 Session Laws (1990 Regular Session) and subsection (a) of this section, is amended by inserting the word "Heritage" between the word "Natural" and the word "Trust".

(c) Sections 223, 224, 226, and 227 of Chapter 727 of the 1989 Session Laws apply to this section and to G.S. 143B-279.3, as amended by Section 31 of Chapter 1004 of the 1989 Session Laws (1990 Regular Session) and this section.

(d) This section is effective on and after 1 July 1989.

Sec. 17. G.S. 143B-285.11(4) reads as rewritten:

"(4) 'Hazardous waste ~~landfill disposal~~ landfill disposal facility' has the same meaning as in G.S. 130A-290."

Sec. 18. G.S. 153A-299.4 reads as rewritten:

"§ 153A-299.4. Approval by Department of ~~Human~~ Environment, Health, and Natural Resources.

The Department of ~~Human~~ Environment, Health, and Natural Resources must approve all contracts entered into pursuant to this Part before such contract may become effective."

Sec. 19. Except as otherwise provided herein, this act is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives