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HOUSE BILL 220
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Senate Agriculture, Energy, and Environment Committee Substitute Adopted 10/5/21

Short Title: Choice of Energy/Modify Pub. Rec./TC.

(Public)

Sponsors:

Referred to:

March 4, 2021

A BILL TO BE ENTITLED

AN ACT TO LIMIT CITIES AND COUNTIES FROM PROHIBITING CONSUMER CHOICE OF ENERGY SERVICE BASED UPON THE TYPE OR SOURCE OF ENERGY TO BE DELIVERED, TO MODIFY PUBLIC RECORDS LAW REGARDING SENSITIVE PUBLIC SECURITY INFORMATION, AND TO MAKE A TECHNICAL CORRECTION.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-205.4. Limitations on regulation of energy choice.

(a) A city shall not adopt an ordinance that prohibits, or has the effect of prohibiting, the connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service.

(b) As used in this section, "energy service" means the energy source that a consumer may choose to use to heat or cool buildings, produce hot water, operate equipment, operate appliances, or any other similar activities, where the energy source is derived from one or more of a variety of sources such as natural gas, renewable gas, hydrogen, liquefied petroleum gas, renewable liquefied petroleum gas, or other liquid petroleum products and that is delivered to the consumer by an entity legally authorized to provide such service or electricity that is derived from one or more sources of electric generation and is delivered to the consumer by an entity legally authorized to provide such service and the distribution of the electricity occurs according to the territorial rights established by G.S. 62-110.2, 160A-331.2, or 160A-332. For purposes of this section, the terms "renewable gas" and "renewable liquefied petroleum gas" shall mean gas derived from a renewable energy resource, as that term is defined by G.S. 62-133.8(a)(8).

(c) Nothing in this section shall be construed to (i) limit the ability of a city to choose the energy service for property owned by the city, (ii) prohibit a city from recovering reasonable costs associated with reviewing and issuing a permit, (iii) affect the authority of a city to manage or operate a city-owned utility, including a city's authority to require persons residing within their jurisdictions to obtain energy service from a city-owned utility or a joint municipal power agency of which they are a member, or (iv) impair a contract executed pursuant to G.S. 160A-322 prior to the effective date of this section for the supply of electric service."

SECTION 1.(b) Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read:



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1 **"§ 153A-145.8. Limitations on regulation of energy choice.**

2 (a) A county shall not adopt an ordinance that prohibits, or has the effect of prohibiting,
3 the connection, reconnection, modification, or expansion of an energy service based upon the
4 type or source of energy to be delivered to an individual or any other person as the end-user of
5 the energy service.

6 (b) As used in this section, "energy service" means the energy source that a consumer
7 may choose to use to heat or cool buildings, produce hot water, operate equipment, operate
8 appliances, or any other similar activities, where the energy source is derived from one or more
9 of a variety of sources such as natural gas, renewable gas, hydrogen, liquefied petroleum gas,
10 renewable liquefied petroleum gas, or other liquid petroleum products and that is delivered to the
11 consumer by an entity legally authorized to provide such service or electricity that is derived
12 from one or more sources of electric generation and is delivered to the consumer by an entity
13 legally authorized to provide such service and the distribution of the electricity occurs according
14 to the territorial rights established by G.S. 62-110.2, 160A-331.2, or 160A-332. For purposes of
15 this section, the terms "renewable gas" and "renewable liquefied petroleum gas" shall mean gas
16 derived from a renewable energy resource, as that term is defined by G.S. 62-133.8(a)(8).

17 (c) Nothing in this section shall be construed to (i) limit the ability of a county to choose
18 the energy service for property owned by the county, (ii) prohibit a county from recovering
19 reasonable costs associated with reviewing and issuing a permit, or (iii) affect the authority of a
20 county to manage or operate a county-owned utility, including a county's authority to require
21 persons residing within their jurisdictions to obtain energy service from a county-owned utility."

22 **SECTION 2.** G.S. 132-1.7 reads as rewritten:

23 **"§ 132-1.7. Sensitive public security information.**

24 (a) Public records, as defined in G.S. 132-1, shall not include any of the following:

25 (1) ~~information-Information~~ containing specific details of public security plans
26 and arrangements or the detailed plans and drawings of public buildings and
27 infrastructure ~~facilities or plans, facilities, including detailed plans and~~
28 ~~drawings contained in, or capable of being produced from, information~~
29 ~~storage systems or geographic information system databases.~~

30 (2) Plans, schedules, or other documents that include information regarding
31 patterns or practices associated with executive protection and security.

32 (3) Specific security information or detailed plans, patterns, or practices
33 associated with prison operations.

34 (4) Specific security information or detailed plans, patterns, or practices to
35 prevent or respond to criminal, gang, or organized illegal activity.

36 (5) Specific engineering, vulnerability, or detailed design information about
37 proposed or existing critical infrastructure, whether physical or virtual, for any
38 of the following:

39 a. The production, generation, transmission, or distribution of energy.

40 b. The treatment, transmission, or distribution of water.

41 c. The outfall, collection, or treatment of wastewater.

42 ~~(a1) Public records, as defined in G.S. 132-1, shall not include specific security~~
43 ~~information or detailed plans, patterns, or practices associated with prison operations.~~

44 ~~(a2) Public records, as defined in G.S. 132-1, shall not include specific security~~
45 ~~information or detailed plans, patterns, or practices to prevent or respond to criminal, gang, or~~
46 ~~organized illegal activity.~~

47 ~~...."~~

48 **SECTION 3.** If House Bill 218, 2021 Regular Session, becomes law, then
49 G.S. 143-214.7(b3), as amended by Section 1(b) of that act, reads as rewritten:

50 "(b3) Stormwater runoff rules and programs shall not require private property owners to
51 install new or increased stormwater controls for (i) preexisting development or (ii)

1 redevelopment activities that do not remove or decrease existing stormwater controls. When a
2 preexisting development is redeveloped, either in whole or in part, increased stormwater controls
3 shall only be required for the amount of impervious surface being created that exceeds the amount
4 of impervious surface that existed before the redevelopment. Provided, however, a property
5 owner may voluntarily elect to treat all stormwater from preexisting development or
6 redevelopment activities described herein for the purpose of exceeding allowable density under
7 the applicable water supply watershed rules as provided in ~~G.S. 214.5(d3)~~. G.S. 143-214.5(d3).
8 This subsection applies to all local governments regardless of the source of their regulatory
9 authority. Local governments shall include the requirements of this subsection in their
10 stormwater ordinances."

11 **SECTION 4.** This act is effective when it becomes law.