

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025

H.B. 873
Apr 9, 2025
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH10383-MHF-83A

Short Title: DEQ Agency Bill.-AB

(Public)

Sponsors: Representative K. Hall.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING THE
3 DEPARTMENT OF ENVIRONMENTAL QUALITY, AS RECOMMENDED BY THE
4 DEPARTMENT OF ENVIRONMENTAL QUALITY.

5 The General Assembly of North Carolina enacts:

6
7 **USE OF TAX-MAINTAINED PROPERTIES FOR PUBLIC HEARINGS**

8 **SECTION 1.(a)** Article 7 of Chapter 143B of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 143B-279.21. Use of schools and other public buildings for public hearings.**

11 (a) The governing authority having control over (i) public buildings or (ii) schools
12 governed by the governing body of a public school unit which have facilities for group meetings
13 is hereby authorized and directed to permit the use of such buildings without charge, except
14 custodial and utility fees, by the Department for public hearings. Provided, that the use of such
15 buildings or schools by the Department for public hearings shall not be permitted at times during
16 the school day or which would interfere with normal school activities or functions normally
17 carried on in such school buildings, and such use shall be subject to reasonable rules and
18 regulations of the governing body of the public school unit and other governing authorities.

19 (b) The Department of Environmental Quality shall be entitled to use any school
20 governed by the governing body of a public school unit or other State, county, or municipal
21 building, or a part thereof, or any other building, or a part thereof, which is supported or
22 maintained, in whole or in part, by or through tax revenues; provided, however, that this section
23 shall not be construed to permit the Department to use any tax-exempt church property for such
24 purposes without the express consent of the individual church involved for the purpose of
25 conducting public hearings."

26 **SECTION 1.(b)** G.S. 115C-47 is amended by adding a new subdivision to read:

27 "(70) To Provide Access to School Facilities to the Department of Environmental
28 Quality. – A local board of education shall adopt policies to allow the
29 Department of Environmental Quality to have access to facilities that can
30 facilitate group meetings on school property of a school governed by the local
31 school board pursuant to G.S. 143B-279.21(a)."

32 **SECTION 1.(c)** Part 2 of Article 14A of Chapter 115C of the General Statutes is
33 amended by adding a new section to read:

34 "**§ 115C-238.35A. Provide access to school facilities to the Department of Environmental**
35 **Quality.**



* D R H 1 0 3 8 3 - M H F - 8 3 A *

1 A charter school shall adopt policies to allow the Department of Environmental Quality to
2 have access to facilities that can facilitate group meetings on charter school property consistent
3 with G.S. 143B-279.21(a)."

4 **SECTION 1.(d)** Subsections (a), (b), and (c) of this section are effective when they
5 become law and apply beginning with the 2025-2026 school year.

7 **CLARIFY INACTIVE HAZARDOUS SITES RESPONSIBLE PARTY**

8 **SECTION 2.** G.S. 130A-310.7(a) reads as rewritten:

9 "(a) Notwithstanding any other provision or rule of law, and subject only to the defenses
10 set forth in this subsection, any person who:

11 (1) Discharges or deposits; or

12 (2) Contracts or arranges for any discharge or deposit; or

13 (3) Accepts for discharge or deposit; or

14 (4) Transports or arranges for transport for the purpose of discharge or deposit

15 any hazardous substance, the result of which discharge or deposit is the existence of an inactive
16 hazardous substance or waste disposal site, shall be considered a responsible party. Neither an
17 innocent landowner who is a bona fide purchaser of the inactive hazardous substance or waste
18 disposal site without knowledge or without a reasonable basis for knowing that hazardous
19 substance or waste disposal had occurred nor a person whose interest or ownership in the inactive
20 hazardous substance or waste disposal site is based on or derived from a security interest in the
21 property shall be considered a responsible party. A landowner who purchases (i) with knowledge
22 that disposal of hazardous substances or waste occurred on the property or (ii) with a reasonable
23 basis for knowing disposal of hazardous substances or waste occurred on the property shall be
24 considered a responsible party if they conduct any activity that causes exposure to or migration
25 of the existing contamination. A responsible party shall be directly liable to the State for any or
26 all of the reasonably necessary expenses of developing and implementing a remedial action
27 program for such site. The Secretary shall bring an action for reimbursement of the Inactive
28 Hazardous Sites Cleanup Fund in the name of the State in the superior court of the county in
29 which the site is located to recover such sum and the cost of bringing the action. The State must
30 show that a danger to the public health or the environment existed and that the State complied
31 with the provisions of this Part."

33 **CLARIFY REQUIREMENTS FOR HAZARDOUS WASTE RECYCLING**

34 **SECTION 3.** Article 9 of Chapter 130A of the General Statutes is amended by
35 adding a new section to read:

36 **"§ 130A-295.07. Requirements for hazardous waste recycling.**

37 (a) For purposes of this section, "off-site recycling facility" means any facility receiving
38 shipments of hazardous waste from off-site to be recycled or processed for recycling through any
39 process conducted at the facility. A facility owned or operated by a generator of hazardous waste
40 to recycle their own waste is not an off-site recycling facility.

41 (b) An off-site recycling facility shall comply with the requirements of this Article and
42 with 15A NCAC 13A .0113.

43 (c) A hazardous waste facility that (i) accepts hazardous waste from off-site for recycling
44 and (ii) meets the definition of "commercial" in G.S. 130A-290 is subject to the requirements of
45 this Article and rules adopted by the Commission applicable to commercial hazardous waste
46 facilities."

48 **MODIFY PAYMENT OF BROWNFIELDS PROPERTY REUSE ACT FEES**

49 **SECTION 4.(a)** G.S. 130A-310.39 reads as rewritten:

50 **"§ 130A-310.39. Fees.**

51 (a) The Department shall collect the following fees:

- 1 (1) A prospective developer who submits an application for a proposed
2 brownfields agreement for review by the Department shall pay an initial fee
3 of two thousand dollars (\$2,000).
- 4 (2) A prospective developer who enters into a brownfields agreement with the
5 Department shall ~~pay-pay, on a schedule that the Department may specify,~~ a
6 fee in an amount equal to the full cost to the Department and the Department
7 of Justice of all activities related to the brownfields agreement, including but
8 not limited to negotiation of the brownfields agreement, public notice and
9 community involvement, and monitoring the implementation of and
10 compliance with the brownfields agreement. ~~agreement and requirements of~~
11 this Part regarding the Notice of Brownfields Property. The procedure by
12 which the amount of this fee is determined shall be established by agreement
13 between the prospective developer and the Department and shall be set out as
14 a part of the brownfields agreement. ~~The fee imposed by this subdivision shall~~
15 ~~be paid in two installments. The first installment shall be due at the time the~~
16 ~~prospective developer and the Department enter into the brownfields~~
17 ~~agreement and shall equal all costs that have been incurred by the Department~~
18 ~~and the Department of Justice at that time less the amount of the initial fee~~
19 ~~paid pursuant to subdivision (1) of this subsection. The Department shall not~~
20 ~~enter into the brownfields agreement unless the first installment is paid in full~~
21 ~~when due. The second installment shall be due at the time the prospective~~
22 ~~developer submits a final report certifying completion of remediation under~~
23 ~~the brownfields agreement and shall include any additional costs that have~~
24 ~~been incurred by the Department and the Department of Justice, including all~~
25 ~~costs of monitoring the implementation of the brownfields agreement.~~
- 26 (3) Any prospective developer or owner of properties subject to a recorded Notice
27 of Brownfields Property who is out of compliance with the requirements of
28 this Part regarding the Notice shall pay a fee to the Department and the
29 Department of Justice sufficient to cover the costs to the State to enforce or
30 otherwise seek to correct the noncompliance.
- 31 (b) Fees and interest imposed under this section shall be credited to the Brownfields
32 Property Reuse Act Implementation Account.
- 33 (c) If a prospective developer fails to pay the full amount of any fee due under this
34 section, interest on the unpaid portion of the fee shall accrue from the time the fee is due until
35 paid at the rate established by the Secretary of Revenue pursuant to G.S. 105-241.21. A lien for
36 the amount of the unpaid fee plus interest shall attach to the real and personal property of the
37 prospective developer and to the brownfields property until the fee and interest is paid. The
38 Department may collect unpaid fees and interest in any manner that a unit of local government
39 may collect delinquent taxes."

40 **SECTION 4.(b)** G.S. 105-277.13 reads as rewritten:

41 "**§ 105-277.13. Taxation of improvements on brownfields.**

42 (a) Qualifying improvements on brownfields properties are designated a special class of
43 property under Article V, Sec. 2(2) of the North Carolina Constitution and shall be appraised,
44 assessed, and taxed in accordance with this section. An owner of land subject to a recorded Notice
45 of Brownfields Property under G.S. 130A-310.35 is entitled to the partial exclusion provided by
46 this section for the first five taxable years beginning after completion of qualifying improvements
47 made after the later of July 1, 2000, or the date ~~of the~~ upon which the Department of
48 Environmental Quality provides written confirmation that the prospective developer of that land
49 and the proposed improvements are eligible to receive a brownfields agreement. After property
50 has qualified for the exclusion provided by this section, the assessor for the county in which the

property is located shall annually appraise the improvements made to the property during the period of time that the owner is entitled to the exclusion.

(b) For the purposes of this section, the terms "qualifying improvements on brownfields properties" and "qualifying improvements" mean improvements made to real property ~~that is subject to as prescribed in a brownfields agreement entered into by the Department of Environmental Quality and the owner recorded Notice of Brownfields Property pursuant to G.S. 130A-310.32.~~ The Brownfields Property Reuse Act of 1997, Part 5 of Article 9 of Chapter 130A of the General Statutes, as amended.

(c) The following table establishes the percentage of the appraised value of the qualified improvements that is excluded based on the taxable year:

<u>Year</u>	<u>Percent of Appraised Value Excluded</u>
Year 1	90%
Year 2	75%
Year 3	50%
Year 4	30%
Year 5	10%."

SECTION 4.(c) Subsection (a) of this section becomes effective January 1, 2026. Subsection (b) of this section is effective for taxes imposed for taxable years beginning on or after July 1, 2025.

SOLID WASTE BENEFICIAL REUSE CLARIFICATION

SECTION 5.(a) G.S. 130A-309.05 reads as rewritten:

"§ 130A-309.05. Regulated wastes; certain exclusions.

(a) Certain Wastes Regulated as Nonhazardous. – Notwithstanding other provisions of this Article, the following waste shall be regulated pursuant to this Part:

- (1) Medical waste; and
- (2) Ash generated by a solid waste management facility from the burning of solid waste.

(b) Management of Ash Generated from Burning of Solid Waste. – Ash generated by a solid waste management facility from the burning of solid waste shall be disposed of in a properly designed solid waste disposal area that complies with standards developed by the Department for the disposal of the ash. The Department shall work with solid waste management facilities that burn solid waste to identify and develop methods for recycling and reusing incinerator ash or treated ash.

(c) Recovered Material. – Recovered material is not subject to ~~regulation as permitting requirements for~~ solid waste under this Article. ~~In order for a material that would otherwise be regulated as solid waste to qualify as a recovered material, the~~ The Department may require any person who owns or has control over the material to demonstrate that the material meets the requirements of this subsection. In order to protect public health and the environment, the Commission subsection or may require the person to obtain a beneficial use determination from the Department in accordance with subsection (d) of this section. The Department may adopt rules to implement this subsection. Materials that are accumulated speculatively, as that term is defined under 40 Code of Federal Regulations § 261 (July 1, 2014 Edition), shall not qualify as a recovered material, and shall be subject to regulation as solid waste. In order to qualify as a recovered material, the material. The material shall be managed as a valuable commodity in a manner consistent with the desired use or end use, and all of the following conditions shall be met:

- (1) Seventy-five percent (75%), by weight or volume, of the recovered material stored at a facility at the beginning of a calendar year commencing January 1, shall be removed from the facility through sale, use, or reuse by December 31 of the same year.

- 1 (2) The recovered material or the products or by-products of operations that
2 process recovered material shall not be discharged, deposited, injected,
3 dumped, spilled, leaked, or placed into or upon any land or water so that the
4 products or by-products or any constituent thereof may enter other lands or be
5 emitted into the air or discharged into any waters including groundwaters, or
6 otherwise enter the environment or pose a threat to public health and safety.
7 Facilities that process recovered material shall be operated in a manner to
8 ensure compliance with this subdivision.
- 9 (3) The recovered material shall not be a hazardous waste or have been recovered
10 from a hazardous waste.
- 11 (4) The recovered material shall not contain significant concentrations of foreign
12 constituents that render it unserviceable or inadequate for sale, or its intended
13 use or reuse.
- 14 (d) Beneficial Use Determination. – For the purposes of preservation of landfill capacity,
15 economic development, energy savings, and reduction of greenhouse emissions, the Department
16 may determine whether nonhazardous solid waste may be used or reused for a particular site or
17 application as an alternative to disposal at a permitted solid waste management facility as set
18 forth in this subsection.
- 19 (1) A person seeking a beneficial use determination shall submit an application to
20 the Department. The Department, after a review of an application submitted
21 under this subsection, may take any of the following actions:
- 22 a. Authorize management of a specified type of nonhazardous solid
23 waste at a site other than a permitted solid waste management facility.
- 24 b. Issue a beneficial use determination with appropriate conditions for
25 use of specific types of solid waste in construction, land application,
26 or other projects and applications.
- 27 (2) An applicant for a determination under this subsection shall submit
28 information on forms prescribed by the Department and any additional
29 information required by the Department necessary for a determination under
30 this subsection. In its review of the application and additional information, the
31 Department shall also consider internal research or information submitted by
32 any person or entity concerning the potential hazard to public health or the
33 environment of any type of solid waste.
- 34 (3) The Department may require submittal of a demonstration that the solid waste
35 is being managed in a manner to protect public health or the environment and
36 may include any of the following as a part of an authorization under
37 subdivision (1) of this subsection:
- 38 a. Requirements for periodic testing of solid wastes.
- 39 b. Conditions to ensure that the products or by-products of a material
40 recovered or diverted for beneficial use shall not be discharged,
41 deposited, injected, dumped, spilled, leaked, or placed into or upon
42 any land or water so that the products or by-products or any
43 constituents thereof may enter other lands or be emitted into the air, or
44 discharged into any waters, including groundwaters, or otherwise enter
45 the environment or pose a threat to public health and safety.
- 46 (4) Approvals granted under this subsection are valid for no longer than five
47 years. Requests for renewal shall be made at least 60 days in advance of the
48 expiration date of the approval.
- 49 (5) The applicant for a determination under this subsection shall submit to the
50 Department on an annual basis a report detailing the usage of material under

1 the approval and certifying compliance with this Article and any applicable
 2 rules adopted under this Article.

3 (6) The Department may suspend or revoke an authorization and may modify an
 4 authorization if it is determined that the activity is not in compliance with the
 5 requirements of applicable laws or rules or if new information is provided to
 6 the Department that impacts the determination of protection of public health
 7 or the environment.

8 (7) The Department shall provide notice on its website of approved beneficial use
 9 determinations.

10 (8) Facilities that manage source separated materials for the purpose of recycling
 11 as defined in G.S. 130A-290 are not subject to the provisions of this
 12 subsection.

13 (9) The Department may adopt rules implementing this subsection and
 14 establishing application fees for a reuse determination under this subsection.
 15 All fees collected under this subdivision shall be credited to the Solid Waste
 16 Management Account established under G.S. 130A-295.8(a). In determining
 17 the amount of the total application fee in rule, the Department shall have the
 18 authority to establish separate fee amounts for annual fees for each year based
 19 on the length of time for which the approval will be valid as requested by the
 20 applicant."

21 SECTION 5.(b) This section becomes effective January 1, 2026.

22
 23 **EXPAND ELIGIBILITY FOR TARGETED INTEREST RATES ON WATER AND**
 24 **WASTEWATER PROJECTS**

25 SECTION 6. G.S. 159G-20(21) reads as rewritten:

- 26 "(21) Targeted interest rate project. – Either of the following types of projects:
 27 a. A project that is awarded a loan from the Drinking Water Reserve or
 28 the Wastewater Reserve based on affordability.
 29 b. A project that is awarded a loan from the CWSRF or the DWSRF and
 30 is in a category for which the Department or federal law encourages a
 31 special focus."

32
 33 **REVISE STEWARDSHIP LAWS**

34 SECTION 7. G.S. 143-214.15 reads as rewritten:

35 **"§ 143-214.15. Compensatory mitigation for diverse habitats.**

36 (a) The Department of Environmental Quality shall seek more net gains of aquatic
 37 resources through compensatory mitigation by increasing wetland establishment of diverse
 38 habitats, including emergent marsh habitat, shallow open water, and other forested and
 39 non-forested wetland habitats.

40 (b) The Department of Environmental Quality shall further establish with the district
 41 engineer of the Wilmington District of the United States Army Corps of Engineers compensatory
 42 mitigation credit ratios that incentivize the creation or establishment of diverse wetland habitats
 43 to support waterfowl and other wildlife.

44 (c) The Department of Environmental Quality shall work in cooperation with the Wildlife
 45 Resources Commission to ensure that all purchased mitigation lands or conservation easements
 46 on these lands ~~maximize opportunities for public recreation, including hunting, and promote~~
 47 ~~wildlife and biological diversity.~~ prioritize management practices that promote wildlife and
 48 biological diversity and, where feasible, provide opportunities for public recreation, including
 49 hunting by property owners and lessees. The Department and the Commission shall pursue the
 50 voluntary involvement of third-party groups to leverage resources and ensure that there is no

1 additional cost to private mitigation bankers or the taxpayers in achieving these mitigation
2 credits.

3 (d) The Stewardship Program of the Department of Environmental Quality shall maintain
4 an inventory of all its land holdings and determine how many of those holdings are potential
5 wildlife habitats, either as currently held or with some modification. The Stewardship Program
6 shall maximize use of these mitigation land holdings as ecological research sites and for hunting
7 leases when the Stewardship Program determines it is feasible to do so.

8 ~~(e) If private individuals, corporations, or other nongovernmental entities wish to~~
9 ~~purchase any of the inventory of land suitable for wildlife habitat, then the Stewardship Program~~
10 ~~of the Department of Environmental Quality shall issue a request for proposal to all interested~~
11 ~~respondents for the purchase of the land. The State shall accept a proposal and proceed to dispose~~
12 ~~of the land only if the Department determines that the proposal meets both of the following~~
13 ~~requirements:~~

14 (1) ~~The proposal provides for the maintenance in perpetuity of management~~
15 ~~measures listed in the original mitigation instrument or otherwise needed on~~
16 ~~an ongoing or periodic basis to maintain the functions of the mitigation site.~~

17 (2) ~~Where the functions of the mitigation site include provision of recreation or~~
18 ~~hunting opportunities to members of the general public, the proposal includes~~
19 ~~measures needed to continue that level of access.~~

20 ~~The instrument conveying a property interest in a mitigation site shall be executed in the~~
21 ~~manner required by Article 16 of Chapter 146 of the General Statutes, and shall reflect the~~
22 ~~requirements of this subsection.~~

23 (f) The Department of Environmental Quality shall report to the Environmental Review
24 Commission by March 1 of each year in which there are changes in inventory during the
25 preceding year under the provisions of this section regarding the changes."
26

27 IMPROVEMENT OF CONSERVATION AGREEMENT PROTECTIONS

28 **SECTION 8.(a)** G.S. 14-130 reads as rewritten:

29 "§ 14-130. Trespass on public lands.

30 If any person shall erect a building on any state-owned lands, or cultivate or remove timber
31 from any such lands, without the permission of the State, he shall be guilty of a Class 1
32 misdemeanor. Moreover, the State can recover from any person cutting timber on its land three
33 times the value of the timber which is cut. For purposes of this section, "state-owned lands"
34 includes lands subject to a conservation agreement where the holder of the agreement is the State
35 or any State agency."

36 **SECTION 8.(b)** G.S. 1-539.1 reads as rewritten:

37 "§ 1-539.1. Damages for unlawful cutting, removal or burning of timber; misrepresentation 38 of property lines.

39 (a) Any person, firm or corporation not being the bona fide owner thereof or agent of the
40 owner ~~who shall who,~~ without the consent and permission of the bona fide owner ~~enter-enters~~
41 upon the land of another and ~~injure, cut or remove injures, cuts, or removes~~ any valuable wood,
42 timber, shrub or tree ~~therefrom, shall be from that land is~~ liable to the owner of ~~said-the~~ land for
43 triple the value of such wood, timber, shrubs or trees so injured, cut or removed.

44 (b) If any person, firm or corporation ~~shall-willfully and intentionally set-sets~~ on fire, or
45 ~~cause-causes~~ to be set on fire, in any manner whatever, any valuable wood, timber or trees on the
46 lands of another, such person, firm or corporation ~~shall-be-is~~ liable to the owner of ~~said-the~~ lands
47 for triple the value of such wood, timber or trees damaged or destroyed thereby.

48 (c) Any person, firm or corporation cutting timber under contract and incurring damages
49 as provided in subsection (a) of this section as a result of a misrepresentation of property lines
50 by the party letting the contract shall be entitled to reimbursement from the party letting the
51 contract for damages incurred.

1 (d) For purposes of this section, "owner" includes the holder, as defined in G.S. 121-35,
2 of any conservation agreement which includes the right to cut or prohibit the cutting of timber."

3

4 **EFFECTIVE DATE**

5 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
6 law.