GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2011

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HOUSE BILL 953 PROPOSED COMMITTEE SUBSTITUTE H953-PCS30651-TF-15

Short Title: E	nvironmental Technical Corrections 2012.	(Public)
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Sponsors:		
Referred to:		
May 17, 2012		
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A BILL TO BE ENTITLED AN ACT TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL AMENDMENTS TO VARIOUS LAWS RELATED TO ENVIRONMENT AND NATURAL RESOURCES, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION. The General Assembly of North Carolina enacts: SECTION 1. G.S. 113-182.1(e) reads as rewritten: "(e) The Secretary of Environment and Natural Resources shall monitor progress in the development and adoption of Fishery Management Plans in relation to the Schedule for development and adoption of the plans established by the Marine Fisheries Commission. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Governmental Operations on progress in developing and implementing the Fishery Management Plans on or before 1 September of each year. The Secretary of Environment and Natural Resources shall report to the Joint Legislative Commission on Seafood and Aquaculture Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each proposed Fishery Management Plan. The Joint Legislative Commission on Governmental Operations shall review each proposed Fishery Management Plan within 30 days of the date the proposed Plan is submitted by the Secretary. The Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the proposed Plan to the Secretary within 30 days of the date the proposed Plan is submitted by the Secretary." SECTION 2.(a) G.S. 113A-115.1 is amended by adding a new subsection to read: "§ 113A-115.1. Limitations on erosion control structures.		
8 113A-113.1. 	Elimitations on crosson control structures.	
report to the Enreport shall proving accompanying be subsection (e) of	ter than September 1 of each year, the Coastal Resouring vironmental Review Commission on the implementation de a detailed description of each proposed and permitte each fill project, including the information required to be this section. For each permitted terminal groin and it export shall also provide all of the following: The findings of the Commission required pursuant to section.	on of this section. The d terminal groin and its e submitted pursuant to ts accompanying beach
<u>(2)</u>	section. The status of construction and maintenance of the accompanying beach fill project, including the status	



1 A description and assessment of the benefits of the terminal groin and its (3) 2 accompanying beach fill project, if any. 3 A description and assessment of the adverse impacts of the terminal groin <u>(4)</u> 4 and its accompanying beach fill project, if any, including a description and 5 assessment of any mitigation measures implemented to address adverse 6 impacts." 7 **SECTION 2.(b)** Section 5 of S.L. 2011-387 is repealed. 8 **SECTION 3.** G.S. 130A-309.10(k) reads as rewritten: 9 A county or city may petition the Department for a waiver from the prohibition on "(k) 10 disposal of a material described in subdivisions (9), (10), (11) and (12)(11), (12), and (13) of 11 subsection (f) of this section and subsection (f3) of this section in a landfill based on a showing 12 that prohibiting the disposal of the material would constitute an economic hardship." 13 **SECTION 4.** The title of Part 2 of Article 3B of Chapter 143 of the General 14 Statutes reads as rewritten: 15 "Part 2. Guaranteed Energy Savings Contracts for Energy Saving Measures for Governmental 16 Units." 17 **SECTION 5.(a)** G.S. 143-214.11 is amended by adding two new subsections to 18 read: 19 "§ 143-214.11. Ecosystem Enhancement Program: compensatory mitigation. 20 21 The Ecosystem Enhancement Program shall exercise its authority to provide for (i) 22 compensatory mitigation under the authority granted by this section to use mitigation 23 procurement programs in the following order of preference: 24 (1) Full delivery/bank credit purchase program. – The Ecosystem Enhancement 25 Program shall first seek to meet compensatory mitigation procurement 26 requirements through the Program's full delivery program or by the purchase 27 of credits from a private compensatory mitigation bank. Existing local compensatory mitigation bank credit purchase program. – 28 **(2)** 29 Any compensatory mitigation procurement requirements that are not 30 fulfillable under subdivision (1) of this subsection shall be procured from an 31 existing local compensatory mitigation bank, provided that the credit 32 purchase is made to mitigate the impacts of a project located within the 33 mitigation bank service area and hydrologic area of the existing local 34 compensatory mitigation bank. 35 Design/build program. - Any compensatory mitigation procurement (3) 36 requirements that are not fulfillable under subdivision (1) or (2) of this 37 subsection shall be procured under a program in which Ecosystem 38 Enhancement Program contracts with one private entity to lead or implement 39 the design, construction, and postconstruction monitoring of compensatory 40 mitigation at sites obtained by the Ecosystem Enhancement Program. Such a program shall be considered the procurement of compensatory mitigation 41 42 credits. Design-bid-build program. – Any compensatory mitigation procurement 43 <u>(4)</u> 44 requirements that are not fulfillable under either subdivision (1) or (2) of this 45 subsection may be procured under the Ecosystem Enhancement Program's design-bid-build program. The Ecosystem Enhancement Program may 46 47 utilize this program only when procurement under subdivision (1) or (2) of 48 this subsection is not feasible. Any mitigation site design work currently being performed through contracts awarded under the design-bid-build 49 50 program shall be allowed to continue as scheduled. Contracts for 51 construction of projects with a design already approved by the Ecosystem

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49 50 Enhancement Program shall be awarded by the Ecosystem Enhancement Program by issuing a Request for Proposal (RFP). Only contractors who have prequalified under procedures established by the Ecosystem Enhancement Program shall be eligible to bid on Ecosystem Enhancement Program construction projects. Construction contracts issued under this subdivision shall be exempt from the requirements of Article 8B of Chapter 143 of the General Statutes.

The regulatory requirements for the establishment, operation, and monitoring of a (i) compensatory mitigation bank or full delivery project shall vest at the time of the execution of the mitigation banking instrument or the award of a full delivery contract."

> **SECTION 5.(b)** Sections 1.2 and 1.3 of S.L. 2011-343 are repealed. **SECTION 6.** G.S. 143B-279.8(f) reads as rewritten:

The Secretary of Environment and Natural Resources shall report to the "(f) Environmental Review Commission and the Joint Legislative Commission on Seafood and Aquaculture [Joint Legislative Commission on Governmental Operations] Joint Legislative Commission on Governmental Operations within 30 days of the completion or substantial revision of each draft Coastal Habitat Protection Plan. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations shall concurrently review each draft Coastal Habitat Protection Plan within 30 days of the date the draft Plan is submitted by the Secretary. The Environmental Review Commission and the Joint Legislative Commission on Governmental Operations may submit comments and recommendations on the draft Plan to the Secretary within 30 days of the date the draft Plan is submitted by the Secretary."

SECTION 7. G.S. 143B-344.37(b)(1) reads as rewritten:

"§ 143B-344.37. (Expires June 30, 2016) North Carolina Sustainable Communities Grant Fund.

- (b) Purposes. – Funds in the North Carolina Sustainable Communities Grant Fund shall be used, as available, to provide funding to regional bodies, cities, or counties to improve regional planning efforts that integrate housing and transportation decisions, to increase the capacity to improve land use and zoning and to provide up to fifty percent (50%) of any required local matching funds for recipients of Federal Sustainable Communities Planning Grants and any other federal grants related to sustainable development and requiring local matching funds. In order to receive funds under this section, regions must meet all of the following requirements:
 - (1) The regional body, city, or county is a part of a regional sustainable development partnership that includes any of the metro regions as defined in G.S. 143B-344.38(b).G.S. 143B-344.38(c). Partnerships may also include any Metropolitan Planning Organizations, Regional Planning Organizations, regional transit agencies, and representation from involved State agencies.

SECTION 8. G.S. 143B-344.38 reads as rewritten:

"§ 143B-344.38. (Expires June 30, 2016) North Carolina Sustainable Communities Task Force - reports.

Beginning in 2011, the Task Force shall report to the Governor, the chairs of the (a) House Commerce, Small Business, and Entrepreneurship Committee House Committee on Commerce and Job Development, and the Senate Commerce Committee, and the Joint Legislative Commission on Governmental Operations no later than October 1 each year. The report shall include the following elements:

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(b) 1, 2011, the Task Force shall report to the House Commerce, Small Business, and Entrepreneurship Committee House Committee on Commerce and Job Development and the

Senate Commerce Committee regarding the sustainable practices scoring system developed in

accordance with G.S. 143B-344.35(7).

...."

SECTION 9. G.S. 143B-432(a) reads as rewritten:

"(a) The Division of Economic Development of the Department of Natural and Economic Resources, the Science and Technology Committee of the Department of Natural and Economic Resources, and the Science and Technology Research Center of the Department of Natural and Economic Resources Resources, and the Western North Carolina Public Lands Council of the Department of Natural and Economic Resources are each hereby transferred to the Department of Commerce by a Type I transfer, as defined in G.S. 143A-6."

Prior to awarding any funding under G.S. 143B-344.37 and no later than February

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SECTION 10. G.S. 18B-1105(b) reads as rewritten:

"§ 18B-1105. Authorization of distillery permit.

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(b) Distilleries for Fuel Alcohol. – Any person in possession of a Federal Operating Permit pursuant to Title 27, Code of Federal Regulations, Part 19 (April 1, 2010 Edition), 201.64 through 201.65 or Part 201.131 through 201.138 shall obtain a fuel alcohol permit before manufacturing any alcohol. The permit shall entitle the permittee to perform only those acts allowed by the Federal Operating Permit, and all conditions of the Federal Operating Permit shall apply to the State permit."

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

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