

ADOPTED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 374

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

H374-ASU-28 [v.7]

Page 1 of 2

Amends Title [NO]
Third Edition

Date _____, 2017

Senator Wells

1 moves to amend the bill on page 16, lines 31-36, by rewriting the lines to read:

2
3 "(a) Application. – This section establishes additional requirements for contested cases
4 filed at the Office of Administrative Hearings that involve the issuance, denial, or modification
5 of a permit, certificate for interbasin transfer, or certification pursuant to Section 401 of the
6 Clean Water Act, by the Department of Environmental Quality or the Environmental
7 Management Commission, where the Department or Commission accepts public comment
8 through a procedure set out by statute or rule."; and
9

10 on page 17, lines 1-23, by rewriting the lines to read:

11
12 "(c) Contested Issues. – No party may bring a contested case or seek judicial review
13 regarding a decision governed by this section unless one of the following applies:

- 14 (1) The party is the applicant for the permit, certificate for interbasin transfer, or
15 certification pursuant to Section 401 of the Clean Water Act, by the
16 Department or Commission.
17 (2) The party submitted comments to the Department or Commission during the
18 comment period and raises an issue that either (i) was raised with the
19 Department or Commission prior to the decision and with sufficient
20 particularity for the Department or Commission to evaluate the merit of the
21 basis or (ii) could not have been raised as a particular basis prior to the
22 decision."

23 **SECTION 12.(b)** The Department of Environmental Quality shall convene a series
24 of meetings with relevant stakeholders, including but not limited to the Office of
25 Administrative Hearings, to review federal and other state models that utilize an administrative
26 record review and develop procedures implementing, or propose modifications to, this section.
27 The Department shall report those procedures or proposed modifications to the Joint
28 Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the
29 Joint Legislative Oversight Committee on Justice and Public Safety, and the Joint Legislative
30 Administrative Procedure Oversight Committee no later than March 31, 2018.

31 **SECTION 12.(c)** Subsection (a) of this section becomes effective January 1, 2019,
32 and applies to any contested case that involves issuance, denial, or modification of a permit,



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1 certificate for interbasin transfer, or certification pursuant to Section 401 of the Clean Water
2 Act, by the Department or Commission for which the application was received by the
3 Department or Commission on or after that date. The remainder of this section is effective
4 when it becomes law."

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
Senate Principal Clerk's Office**