

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2017

## Legislative Fiscal Note

**BILL NUMBER:** Senate Bill 131 (Third Edition)  
**SHORT TITLE:** Regulatory Reform Act of 2016-2017  
**SPONSOR(S):** Senators Wells, Cook, and Sanderson

<b>FISCAL IMPACT</b>					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2017-18	FY 2018-19	FY 2019-20	FY 2020-21	FY 2021-22
<b>State Impact</b>					
General Fund Revenues:					
General Fund Expenditures:					
State Positions:					
<b>NET STATE IMPACT</b>	<b>Likely budget costs. See Assumptions &amp; Methodology section for additional details.</b>				
<b>Local Impact</b>					
Revenues:					
Expenditures:					
<b>NET LOCAL IMPACT</b>	<b>No estimate available. Please see Assumptions &amp; Methodology section for additional details.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
With possible fiscal impact: Department of Transportation, Department of Environmental Quality, local education agencies, NC State Board of Refrigeration Examiners					
Without fiscal impact: Department of Health and Human Services, Department of Agriculture and Consumer Services, Department of Natural and Cultural Resources, Department of Insurance, Department of Administration, Department of Military and Veterans Affairs, General Assembly, Lieutenant Governor's Office, Wildlife Resources Commission, Utilities Commission, NC Veterinary Medical Board					
<b>EFFECTIVE DATE:</b> Varies					
<b>TECHNICAL CONSIDERATIONS:</b>					
None					

**BILL SUMMARY:**

The bill amends several State laws related to business regulation; State and local government regulation; and agricultural, energy, environmental, and natural resources regulation.

**ASSUMPTIONS AND METHODOLOGY:**

No sections of the bill are estimated to have a direct fiscal impact on the State's operations except as otherwise described below.

## **Part I. Business Regulation**

**Section 1.1** clarifies that a franchisor is not the employer of a franchisee or employees of a franchisee for employment law claims under State law. There may be some circumstances under current law in which a franchisor pays unemployment taxes on behalf of employees of a franchisee. Under the bill, those franchisors would no longer be required to pay unemployment taxes for those employees. **The fiscal impact is expected to be minimal.**

## **Part II. State and Local Government Regulation**

**Section 2.3** amends a statute that requires local boards of education to encourage recycling and authorizes those boards to adopt recycling programs, by adding a requirement that the boards comply with criteria that must be met under existing law by a local government for the local government to displace a private company that is providing collection services for municipal solid waste or recovered materials within the local government's jurisdiction.

The potential fiscal impact of this change would be on LEAs that self-operate a recycling program rather than having a private company or the local government provide the collection service of recycled material on behalf of the LEA. The number and location of LEAs self-operating recycling programs are unknown. Also, unknown are a given LEA's cost of self-operating a recycling program or the cost of a private company providing the collection service to a LEA affected by this change. **As a result, the fiscal impact cannot be determined.**

**Section 2.7** renames the State Board of Refrigeration Examiners the State Board of Refrigeration Contractors, and make other changes to the refrigeration contractor licensing statutes. By amending the licensure rules, the Board believes they might see an increase in the number of licenses issued in upcoming years. **However, that amount cannot be estimated.**

Also, the section adjusts the caps for several fees the Board is currently collecting. The bill would increase the cap on three fees. The license examination fee would increase from \$40.00 to \$100.00. The annual license renewal fee would increase from \$40.00 to \$80.00. And the late renewal fee would increase from \$75.00 to \$160.00.

The State Board of Refrigeration Examiners estimates there are currently approximately 1,875 licensees. It also estimates about 100 late renewals and 80 applications for license examinations, annually. If the Board sets the fees at the proposed caps, they would see increased fee collections of \$84,300 annually. That amount is derived from the \$60.00 examination fee increase for 80 applicants plus the \$40.00 annual license renewal increase for 1,775 licensees plus the \$95.00 late renewal fee increase for 100 licensees.

**Section 2.8** amends the definition of antique automobile in the tax statutes to provide that an antique automobile may be owned by an individual directly or indirectly through one or more pass through entities. Under current law, an antique automobile is owned by an individual. By broadening the ownership criteria for antique automobiles, this section may potentially increase the number of antique vehicles eligible for preferential tax treatment, resulting in a reduction in tax revenue. However, no data is available concerning the number of automobiles owned directly or indirectly by a pass-through entity; **therefore, no estimate of the fiscal impact is available.**

**Part III. Agriculture, energy, environmental, and natural resources regulation**

**Section 3.3** requires the Division of Waste Management in DEQ to study landfill capacity and usage issues, as well as cost issues associated with transport of waste due to lack of, or underutilized, landfill capacity in a jurisdiction. The Department must submit a report, including any legislative recommendations, to the Environmental Review Commission (ERC) by November 1, 2017.

The Department estimates that this work will require one full-time equivalent employee. However, this bill does not require that DEQ hire any additional staff or contract with an external provider to perform the study. **It is assumed that the cost will be absorbed into DEQ’s budget.**

**Section 3.5** modifies various aspects of the motor vehicle emissions inspections program required by the Division of Air Quality in the Department of Environmental Quality (DEQ) and operated by the Division of Motor Vehicles within the Department of Transportation. These changes are consistent with some of the recommendations from DEQ during its FY2015-16 Continuation Review of the Inspections & Maintenance program.

G.S. 20-183.7(c) sets the following fee schedule and distribution of proceeds for safety-only and emissions/safety inspections.

Figure 1

<b>Safety and Emissions Costs and Allocations</b>			
<b>Account</b>	<b>Safety-Only</b>	<b>Emissions/Safety</b>	<b>Forgone Revenue</b>
Highway Fund	\$0.55	\$5.30	\$4.75
Volunteer Rescue/EMS Fund	\$0.18	\$0.18	\$0.00
Rescue Squad Workers Relief Fund	\$0.12	\$0.12	\$0.00
Division of Air Quality	\$0.00	\$0.65	\$0.65
<b>Cost to North Carolina Citizen:</b>	<b>\$13.60</b>	<b>\$30.00</b>	<b>\$16.40</b>
<b>Electronic Authorization Fee:</b>	<b>\$0.85</b>	<b>\$6.25</b>	
<b>Private Inspection Station Revenue:</b>	<b>\$12.75</b>	<b>\$23.75</b>	<b>\$11.00</b>

A query of the Motor Vehicle Inspection and Law Enforcement System (MILES) provided the following snapshot of emission inspection activity for FY2015-16.

Figure 2

<b>Number of Inspections by County for FY2015-16</b>			
<b>County</b>	<b># of Inspections</b>	<b>County</b>	<b># of Inspections</b>
BRUNSWICK	69,188	MOORE	53,517
BURKE	51,832	NASH	54,741
CALDWELL	49,134	ORANGE	68,572
CARTERET	42,783	PITT	80,368
CATAWBA	96,751	ROBESON	63,255
CHATHAM	43,236	RUTHERFORD	37,438
CLEVELAND	58,178	STANLY	37,620
CRAVEN	53,469	STOKES	29,432
EDGEcombe	26,369	SURRY	44,392
GRANVILLE	33,396	WAYNE	65,462
HARNETT	63,132	WILKES	41,274
HENDERSON	63,866	WILSON	44,584
LENOIR	31,349	<b>Total</b>	<b>1,303,338</b>

Assuming this volume is indicative of typical annual activity, revenue loss in the year of implementation is estimated to be \$4,643,142 to the Highway Fund and \$635,378 to the Division of Air Quality (DAQ). In all subsequent years the annualized revenue losses to the Highway Fund and DAQ are estimated at \$6,190,856 and \$847,170, respectively. Potential losses for licensed private inspection stations could approach \$14,336,718.

**Section 3.5.(b) has a nominal fiscal impact to the Highway Fund.**

**Section 3.7** directs the Department of Environmental Quality (DEQ) to study 1) whether the size of riparian buffers required for intermittent streams should be adjusted and whether the allowable activities within the buffers should be modified and 2) under what circumstances units of local government should be allowed to exceed riparian buffer requirements mandated by the State and the federal government.

DEQ estimates that this work will require one half-time employee during the course of the study. However, this bill does not require that DEQ hire any additional staff or contract with an external provider to perform the study. **It is assumed that the cost will be absorbed into DEQ’s budget.**

**Section 3.13** establishes a statutory 300 linear foot threshold for mitigation of losses of stream bed and directs the Environmental Management Commission to amend its rules accordingly. The provision also directs the cochairs of the Environmental Review Commission (ERC) submit written comments to the US Army Corp of Engineers’ Washington, D.C. Headquarters, the Wilmington District Office, and the North Carolina congressional delegation to encourage the Wilmington District to adopt a threshold consistent with those adopted for neighboring districts.

Under this provision, developers in the State, including the Department of Transportation (DOT) and other State agencies, would not be required to pay for compensatory mitigation activities for projects that have an impact on 300 linear feet of stream bed or less. Projects that would meet this

threshold have constituted an increasingly small portion of the mitigation activities performed by the State. From 2001 to 2015, the Division of Mitigation Services within DEQ accepted 159 mitigation obligations pertaining to instances ranging from 150 to 300 linear feet with an estimated total of 37,876 feet impacted. **However, DEQ does not have sufficient information on all State projects over the next five years that would be exempted from mitigation under this provision.**

Based on historical data, approximately 6.5% of DOT's projects would be impacted by this provision. **DOT stated that if DOT can successfully petition the Wilmington District Corps of Engineers to adjust its mitigation requirement to 300 feet of stream impact, DOT could realize savings on average of up to \$6,000,000 annually. It is not known what share of the savings will be applied to the Highway Fund and Highway Trust Fund.**

**Part IV. Eliminate, consolidate, and amend reports to the environmental review commission**

No fiscal impact is expected.

**SOURCES OF DATA:** Department of Transportation, Department of Environmental Quality, Department of Health and Human Services, Department of Insurance, Utilities Commission, North Carolina State Board of Refrigeration Examiners

**TECHNICAL CONSIDERATIONS:** None

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