

Legislative Update

2016 Legislative Short Session

- Began April 25
- House passed their version of the budget in mid-May.
- Senate passed their version on June 3rd
- There is currently a flurry of legislative activity because folks are trying to get legislation completed prior to the budget being agreed to.

Budget

- There is a surplus and the chambers have already agreed to a spending amount
- House passed their version of the budget in mid-May
- Senate passed their version of the budget on June 3rd.
- Conferees have been selected from each chamber to negotiate what will be included in final budget.
- Items to note in the proposed House Budget
 - Provides an additional \$5 Million for the Clean Water Management Trust Fund (CWMTF)
 - “Environmental Management of Impaired Waters” - returns funds from the terminated SolarBee project in Jordan Lake to the CWMTF
- Items to note in the Senate Budget
 - Provides an additional \$5 Million for the Clean Water Management Trust Fund (CWMTF)
 - “Development of New Comprehensive Nutrient Management Regulatory Framework” (Sec. 14.13).
 - ❖ If passed it would call for the review (with the possible revision or repeal) of all the State’s Nutrient Management Strategies (Neuse River Basin, Tar-Pamlico Basin, Falls Lake Watershed, and Jordan Lake) and any other rules imposing riparian buffer requirement for the purpose of nutrient management.
 - ❖ Specifics:
 - Repeals the provision in last year’s budget regarding the Jordan Lake Demonstration Project; including the additional delay of the Jordan Lake Rules.
 - Allocates \$500,000 a year through 2019-2020 for the UNC Chancellor to designate an entity to study and analyze nutrient management strategies (including in-lake technologies and existing water quality data). It will report to the Environmental Review Commission, the N.C. Environmental Management Commission (EMC), and the Department of Environmental Quality by December 31, 2019.
 - Directs the EMC:
 - (1) as part of the existing rule review process (and based on the study mentioned above) to review and revise all existing State Nutrient Management Strategies and any other regulations

- imposing riparian buffer requirement for the purpose of nutrient management
- (2) by Dec. 31, 2020 adopt temporary rules based on the revisions to the State Nutrient Management Strategies (with public hearings in upstream and down stream portions of all impacted basins).
- (3) No later than Dec. 31, 2016, to convene a stakeholder working group that represents all classes of users and all geographic parts of the impacted river basins.
- Repeals all the current State Nutrient Management Strategies (and any other regulations imposing riparian buffer requirement for the purpose of nutrient management) on the effective date of the temporary rule or Dec. 31, 2020 (which ever is earlier).
- Allocates funds to study the use of freshwater mussels in impaired waters.
- For the Jordan Lake and Falls Lake rules are not yet in effect, they will not take effect and are subject to the repeal the other rules are subject to.
- Sets that the cost for nutrient offsets in any watershed subject to a State Nutrient Management Strategy should be no higher than those currently established for the Falls Lake watershed.

Environmental Bills of Interest

- [HB 965](#) *Aquatic Weed Control Clarification* ([SB 769](#)).
 - Expands uses of state-level aquatic weed control funds beyond lakes to any water body
 - Also included in House/Senate budget.
- [HB 996](#) *DEQ Study of Rip. Buffers for Intermitt. Streams* ([SB 766](#))
 - Directs an interim study of the size of and activities allowed in riparian buffers on intermittent streams. (ERC Recommended).
- [HB 997](#) *DEQ Study Intrabasin Transfers* ([SB 764](#))
 - Directs an interim study of which interbasin transfer requirements should apply when a transfer is made between sub-basins within the same river basin. (ERC Recommended).
- [HB 1005](#) *Issuance of Advisories/Drinking Water Stds.* ([SB 779](#))
 - disallows the State or local health boards from issuing drinking water advisories for wells or public water supplies unless pursuant to EPA drinking water standards; state drinking water or groundwater standards; or in response to an imminent threat to public health, safety, welfare, or the environment
- [HB 1006](#) *DEQ Study Nutrient Management Strategies* ([SB 767](#))
 - Directs an interim study of the effectiveness of state nutrient management, including the use of in-lake tech. (ERC Recommended).
- [HB 1024](#) *Prohibit Certain Stormwater Control Measures* ([SB 763](#))
 - Prohibits DEQ from requiring on-site stormwater control measures not otherwise required by State or federal law (ERC Recommended).
- [HB 1052](#) *Eliminate and Consolidate Reports to ERC* ([SB 793](#))

- eliminates or consolidates a wide variety of environmental reports, including one requiring local governments to report on use of internal procedures to elevate disputes with outside consulting engineers.
- Also seen in Senate Reg Reform (HB 139) and House Reg. Reform (SB 303)
- [HB 1074](#) *School Tests for Lead/HS Dropout Pilot Prog.*
 - requires all public schools to test drinking water fountains for lead and remove all sources of lead if tests exceed federal drinking water standards; also directs DEQ and DHHS to study EPA's Lead and Copper Rule, and report findings to legislative oversight committees.
- [SB 777](#) *Solid Waste Amendments*
 - among other technical corrections, clarifies that cities may only grant 60-year franchises for sanitary landfills, and 30-year franchises for solid waste collection or disposal system facilities
- [HB 169](#) *Regulatory Reduction Act of 2016*
 - Senate's version of Reg. Reform
 - Includes changes regarding what rules can be adopted (APA), providing financial impact ceilings.
 - Would repeal ban on electronics such as televisions and computers and would also repeal the requirements to recycle electronic waste
 - Removes reporting requirements for state agencies and local governments, including [a recent requirement](#) for cities and towns to tell the state about certain engineering plan review processes.
 - Passed Senate on June 13; likely House will vote not to concur.
- [SB 303](#) *Regulatory Reduction Act of 2016*
 - House's version of Reg. Reform
 - Scheduled for House floor for June 16.
 - Very few environmental provisions → the issues that affect municipalities are mostly related to zoning and land-use there maybe additional amendments on June 16
- [SB 770](#) *NC Farm Act of 2016*
 - Among other provisions would exempt all agricultural withdrawals from any future [capacity use area designation](#), allowing these withdrawals to occur with no regulation.

Regulatory Update

Review of Rules Process

- DEQ informed EMC in January that it would delay this package of 375+ Water rules (2B, 2H, 2T, 2U) until at least November

Triennial Review

- In April, almost a full year after the state's submittal, the U.S. Environmental Protection Agency (EPA) partially approved the N.C. Environmental Management Commission's (EMC) amendments to state water quality standards -- a rulemaking process known as the "triennial review."

- This rulemaking started in 2007 and is required by the federal Clean Water Act.
- In its [50-page response](#), EPA disapproved some of the League-supported aspects of the suggested standards, including the retention of action levels. EPA approved the dissolved metals criteria.
- The N.C. Department of Environmental Quality (DEQ) is still negotiating with EPA on the EMC's behalf regarding implementation of the disapproved parts of the amendments and there will be a larger discussion of the effects at the July meeting of the EMC's Water Quality Committee.

Environmental Management Commission

- After rejecting DEQ's revised versions, the EMC took action at their May meeting to approve two legislatively requested study reports:
 - Study of the State's Riparian Buffer Protection Program pursuant to SL 2015-246
 - ❖ In discussion of this [report](#), the EMC recognized that scientific literature demonstrates that riparian buffers perform many functions that protect water quality and address nutrient sediment and pollutant loading as part of larger management strategies that require reductions from municipal and industrial dischargers, and agriculture.
 - Survey of In Situ Strategies for Mitigation of Water Quality Impairments in North Carolina
 - ❖ This [report](#) analyzed whether technologies for the in-lake removal of nutrients could address nutrient impairment in lakes which can cause undesirable conditions including algal blooms and fish kills.
 - ❖ The EMC recognized that no single in-lake technology or combination of technologies alone appeared to be feasible for restoring water quality on North Carolina's large bodies of water. Instead, the commission noted that there may be value in using these technologies in combination with other watershed controls, but there is not enough research to guarantee their success.

SolarBees

- DEQ [decided](#) in early May to terminate the controversial SolarBee project on Jordan Lake after 21 months of data indicated there was no significant improvement in water quality from the use of that type of circulator in-lake technology.
- Although it is likely that the 2016 budget will return any remaining funds designated for the SolarBee project to the Clean Water Management Trust Fund, it remains unclear whether the legislature will continue to delay the implementation of the Jordan Lake Rules.

303(d) List

- At the beginning of March, N.C. Division of Water Resources (DWR) released its 2016 draft list of the state's impaired waters ("303(d) list").
- The Clean Water Act (CWA) requires states to evaluate the health of their waterbodies every two years and list those that do not meet water quality standards.
- Once listed, impaired waters most often become subject to water pollution restrictions for the affected watershed, usually in the form of a Total Maximum Daily Load (TMDL) limits.
- DWR took public comment until March 29, 2016



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UNRBA

- In early April, DWR [sent the list to EPA](#) for approval and that submittal included a [white paper](#) that justified the methodology the State used for assessing toxics.

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