

Whereas, what is needed in State government is a formal process to reassess the rule-making process and to review rules in all areas of State government; and

Whereas, applying common sense principles to regulation can reduce animosity toward the regulatory system, lower the costs of compliance, and provide better regulation rather than more regulation; and

Whereas, a Common Sense Regulatory Review Commission is needed to design a process to create this new kind of regulatory approach in North Carolina; and

Whereas, the goal of this act is to substitute a common sense approach for the current legalistic, rule-driven approaches to protect the environment, promote public health and safety, promote workplace safety, and promote fair business practice; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Commission Created. – The Common Sense Regulatory Review Commission is created. The Commission shall consist of 15 members as follows:

- (1) Five members to be appointed by the President Pro Tempore of the Senate, three of whom shall be members of the Senate, one of whom shall be recognized as an environmentalist who is not a legislator nor a business person, and one of whom shall be a business person who is not a legislator nor an environmentalist.
- (2) Five members to be appointed by the Speaker of the House of Representatives, three of whom shall be members of the House of Representatives, one of whom shall be recognized as an environmentalist who is not a legislator nor a business person, and one of whom shall be a business person who is not a legislator nor an environmentalist.
- (3) Five members to be appointed by the Governor, two of whom shall be environmentalists who are not legislators nor business persons, two of whom shall be business persons who are not legislators nor environmentalists, and one of whom shall be a citizen who represents the general public.

Members appointed to the Commission shall serve until the Commission completes its tasks and submits a final report. Vacancies in the Commission shall be filled by the same appointing officer who made the original appointments.

Sec. 2. Review of Existing Rules. – The Common Sense Regulatory Review Commission shall complete a review of all rules in the North Carolina Administrative Code according to the following schedule:

- (1) For environmental rules, by May 1, 1996.
- (2) For agriculture rules and social services rules, by December 1, 1996.
- (3) For public health and safety rules, workplace rules, and business licensing rules, by May 1, 1997.
- (4) For all other rules, by May 1, 1998.

The Commission shall establish a process for reviewing all existing rules.

Sec. 3. Common Sense Goals. – The Common Sense Regulatory Review Commission shall review Article 2A of Chapter 150B of the General Statutes, develop a

1 strategy for rule making in the future, and establish a set of goals to accomplish prior to
2 termination of the Commission. The Commission shall consider for its goals any or all of
3 the following:

- 4 (1) To reduce the volume of rules by fifty percent (50%) over the next three
5 years.
- 6 (2) To reduce the costs of compliance with State regulations.
- 7 (3) To assure that the benefits of rules outweigh the costs.
- 8 (4) To reduce the time necessary to obtain permits by fifty percent (50%).
- 9 (5) To increase public understanding and participation in the rule-making
10 process.
- 11 (6) To clarify expected outcomes for rules.
- 12 (7) To improve public acceptance and approval of regulations.
- 13 (8) To attempt to accomplish any other goal the Commission establishes.

14 Sec. 4. The Ten Common Sense Rules. – The Common Sense Regulatory
15 Review Commission shall develop a set of criteria to guide the review and proposed
16 modification or repeal of existing rules and the proposed adoption of future rules. The
17 Commission shall consider for its criteria any or all of the following so-called Ten
18 Common Sense Rules of Rule Making:

- 19 (1) There is no better way of accomplishing the purpose of the proposed
20 rule than by adopting the rule.
- 21 (2) The proposed rule shall be based on the least amount of government
22 intrusion necessary to accomplish a necessary purpose.
- 23 (3) The proposed rule shall be written in plain language understandable to a
24 high school graduate.
- 25 (4) The proposed rule shall incorporate incentives for self-regulation and
26 reporting of problems.
- 27 (5) Any nonfederally mandated rule shall be subject to periodic sunset
28 review.
- 29 (6) The public shall have adequate advance notice of all proposed rule
30 making.
- 31 (7) The public and private cost of enforcement and compliance shall be
32 outweighed by the benefit of the proposed rule.
- 33 (8) Rules will not be based on the assumption that people and businesses
34 are stupid and incapable of a reasonable degree of self-regulation.
- 35 (9) To the extent possible, rules shall provide flexible means to meet
36 proposed standards and shall not prescribe a precise method of meeting
37 those standards.
- 38 (10) There shall be adequate opportunity for education, comment, and
39 participation in rule making by interested citizens.

40 Sec. 5. Innovative Solutions. – The Common Sense Regulatory Review
41 Commission shall consider methods to promote innovative solutions that lessen the need
42 for rules. The Commission may consider:

- 43 (1) Developing a list of the top 10 most costly rules to implement.

- 1 (2) Offering small incentive grants for research or demonstration projects to
2 seek innovative solutions to achieve the purpose of a rule at less cost or
3 complexity.
- 4 (3) Encouraging the involvement of experts in science, technology, and
5 public policy at the State universities and in the private sector.
- 6 (4) Encouraging the joint efforts of the State universities and the private
7 sector to find innovative solutions to problems or incentives for
8 particular behavior other than through rule making.
- 9 (5) Establishing a revolving compliance fund consisting of low-interest loan
10 funds to assist the regulated community in achieving compliance with
11 rules.

12 Sec. 6. Strategy to Develop Environment Commission. – The Common Sense
13 Regulatory Review Commission shall develop a strategy for the establishment of an
14 Environment Commission, a commission with executive functions, patterned after the
15 North Carolina Utilities Commission, to:

- 16 (1) Replace all the commissions that exist within State government that
17 have the authority to adopt rules affecting the environment, natural
18 resources, or health-related environmental matters.
- 19 (2) Balance the interests of environmental protection and economic
20 development within the State.
- 21 (3) Represent in its membership both environmental and economic
22 assessment specialists.
- 23 (4) Enhance the efficiency of the environmental regulatory process.
- 24 (5) Serve as the single rule-making body regarding environment, natural
25 resources, and health-related environmental matters.
- 26 (6) Coordinate regulatory programs across a broad range of environmental
27 policy.
- 28 (7) Resolve disputes between a State agency and other persons through an
29 administrative hearings process for contested cases.
- 30 (8) Hear and decide all appeals of environmental permit decisions.
- 31 (9) In conducting hearings, apply the rules of evidence applicable in civil
32 actions in the superior court, insofar as practical; support its decisions
33 by competent, material, and substantial evidence upon the consideration
34 of the entire record; and provide for appeal to the North Carolina
35 Supreme Court for cases involving rates and, for all other appeals of
36 decision, provide for appeal directly to the North Carolina Court of
37 Appeals.
- 38 (10) Be exempt from Chapter 150B of the General Statutes.
- 39 (11) Complete the consolidation of environmental regulatory programs by
40 realigning the organization, powers, duties, and functions of the boards,
41 commissions, and councils associated with the Department of
42 Environment, Health, and Natural Resources.

- 1 (12) Facilitate involvement by citizens who serve currently on environmental
2 councils, boards, and other such bodies by creating two or three
3 advisory councils in the areas of environment, health, and natural
4 resources.
- 5 (13) Consider restructuring the Department of Environment, Health, and
6 Natural Resources to reflect the development of the Environment
7 Commission.
- 8 (14) Consider the role, structure, and function of the staff of the Environment
9 Commission and whether any staff of the Department of Environment,
10 Health, and Natural Resources should be used to staff the Environment
11 Commission.

12 Sec. 7. Review of Existing Environmental Board and Commissions. – The
13 Common Sense Regulatory Review Commission shall review the following boards and
14 commissions that currently address environmental matters to determine the desirability
15 and feasibility of incorporating in the Environment Commission the powers, duties, and
16 functions of:

- 17 (1) Coastal Resources Commission.
18 (2) Environmental Management Commission.
19 (3) Commission for Health Services.
20 (4) Marine Fisheries.
21 (5) Mining Commission.
22 (6) Sedimentation Control Commission.
23 (7) Soil and Water Conservation Commission.
24 (8) Water Pollution Control System Operators Certification Commission.
25 (9) Water Treatment Facility Operators Board of Certification.
26 (10) Wildlife Resources Commission.
27 (11) Pesticide Board.
28 (12) Structural Pest Control Committee.

29 Sec. 8. Reports. – No later than April 1, 1996, the Common Sense Regulatory
30 Review Commission shall report to the 1995 Session of the General Assembly (1996
31 Regular Session) by filing a report with the President Pro Tempore of the Senate and the
32 Speaker of the House of Representatives. This report shall include:

- 33 (1) The results of its review of all environmental rules pursuant to Section 2
34 of this act and its recommendation for modifying or repealing any of
35 those rules.
- 36 (2) The strategy and recommendations regarding the establishment of the
37 Environment Commission pursuant to Sections 6 and 7 of this act and
38 legislative proposals to implement the strategy and these
39 recommendations.
- 40 (3) Proposed revisions to the current rule-making process consistent with its
41 goals and criteria under Sections 3 and 4 of this act.
- 42 (4) Any other matters the Commission determines necessary to report
43 concerning its duties under this act.

1 The Commission shall report to the General Assembly annually thereafter its
2 findings, recommendations, and proposals for legislation or rule changes with respect to
3 its duties under this act and in accordance with the time schedule under Section 2 of this
4 act. If at any time during its deliberations, the Commission identifies a recommendation
5 that can be implemented through the Administrative Procedures Act, Chapter 150B of the
6 General Statutes, the Commission shall forward that recommendation with the proposed
7 rule change to the responsible State agency for immediate consideration. The
8 Commission shall terminate December 31, 1998.

9 Sec. 9. Commission Organization. – The President Pro Tempore of the Senate
10 and the Speaker of the House of Representatives each shall select a cochair of the
11 Common Sense Regulatory Review Commission. A majority of the Commission shall
12 constitute a quorum for the transaction of business. The Commission shall conduct its
13 initial meeting no later than August 1, 1995. Thereafter, the Commission shall meet as
14 often as necessary to fulfill its duties, upon the joint call of the cochairs. The
15 Commission may contract for consultants or hire employees in accordance with G.S. 120-
16 32.02. The Legislative Services Commission, through the Legislative Administrative
17 Officer, shall assign at least six members of the professional staff to assist the
18 Commission in its work. Upon the direction of the Legislative Services Commission, the
19 Supervisors of Clerks of the Senate and of the House of Representatives shall assign
20 clerical staff to the Commission. The expenses for clerical employees shall be borne by
21 the Commission.

22 The Commission may meet in the Legislative Building or the Legislative
23 Office Building upon the approval of the Legislative Services Commission. The
24 Commission, while in the discharge of official duties, may exercise all the powers
25 provided under the provisions of G.S. 120-19 through G.S. 120-19.4.

26 Sec. 10. Expense of Members. – Members of the Commission shall receive
27 per diem, subsistence, and travel allowances as follows:

- 28 (1) Commission members who are also General Assembly members, at the
29 rate established in G.S. 120-3.1.
- 30 (2) Commission members who are officials or employees of the State or
31 local government agencies, at the rate established in G.S. 138-6.
- 32 (3) All other Commission members, at the rate established in G.S. 138-5.

33 Sec. 11. Appropriations. – (a) There is appropriated from the General Fund to
34 the General Assembly the sum of seventy-five thousand dollars (\$75,000) for the 1995-
35 96 fiscal year and the sum of seventy-five thousand dollars (\$75,000) for the 1996-97
36 fiscal year for the cost of staffing the Common Sense Regulatory Review Commission
37 created in Section 1 of this act.

38 (b) There is appropriated from the General Fund to the General Assembly the sum
39 of one hundred fifty thousand dollars (\$150,000) for the 1995-96 fiscal year and the sum
40 of one hundred fifty thousand dollars (\$150,000) for the 1996-97 fiscal year for all
41 expenses, other than the costs of staffing the Common Sense Regulatory Review
42 Commission created in Section 1 of this act.

43 Sec. 12. This act becomes effective July 1, 1995.