

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

S

2

SENATE BILL 1024
Agriculture/Environment/Natural Resources Committee Substitute Adopted
4/26/01

Short Title: Amend Appointment of EMC Members.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE NUMBER OF MEMBERS OF THE ENVIRONMENTAL MANAGEMENT COMMISSION FROM SEVENTEEN TO EIGHTEEN, TO ALTER THE MANNER IN WHICH MEMBERS OF THE COMMISSION ARE APPOINTED, AND TO PROVIDE FOR STAGGERED FOUR-YEAR TERMS FOR MEMBERS OF THE COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-283 reads as rewritten:

"§ 143B-283. **Environmental Management Commission – members; selection; removal; compensation; quorum; services.**

(a) The Environmental Management Commission shall consist of ~~13 members appointed by the Governor. The Governor shall select the members so that the membership of the Commission shall consist of:~~ 18 members appointed as follows:

- (1) ~~One who shall be~~ who, at the time of appointment, is a licensed physician with specialized training and experience in the health effects of environmental ~~pollution;~~ pollution; appointed by the Governor.
- (2) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is actively connected with the Commission for Health Services or local board of health or ~~have~~ has experience in health ~~scienc~~ sciences; appointed by the Governor.
- (3) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is actively connected with or ~~have had~~ has experience in ~~agricult~~ agriculture; appointed by the Governor.
- (4) ~~One who shall,~~ who, at the time of appointment, ~~be~~ is a registered engineer with specialized training and experience in water supply or water or air pollution ~~cont~~ control; appointed by the Governor.

- 1 (5) One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively
2 connected with or ~~have had~~ has experience in the fish and wildlife
3 conservation activities of the ~~State;~~ State, appointed by the Governor.
- 4 (6) One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special
5 training and scientific expertise in hydrogeology or groundwater
6 ~~hydrology;~~ hydrology, appointed by the Governor.
- 7 ~~(7) Three members interested in water and air pollution control, appointed~~
8 ~~from the public at large;~~
- 9 ~~(8)(7)~~ One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively
10 employed by, or recently retired from, an industrial manufacturing
11 facility and knowledgeable in the field of industrial air and water
12 pollution ~~control;~~ control, appointed by the Governor.
- 13 ~~(9)(8)~~ One ~~who shall,~~ who, at the time of appointment, ~~be is~~ actively
14 connected with or ~~have had~~ has experience in pollution control
15 problems of municipal or county ~~government;~~ government, appointed
16 by the Governor.
- 17 ~~(10)(9)~~ One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special
18 training and scientific expertise in air pollution control and the effects
19 of air ~~pollution;~~ and pollution, appointed by the Governor.
- 20 ~~(11)(10)~~ One ~~who shall,~~ who, at the time of appointment, ~~have~~ has special
21 training and scientific expertise in freshwater, estuarine, marine
22 biological, or ecological ~~sciences.~~ sciences, appointed by the Governor.
- 23 (11) One who is interested in water and air pollution control, appointed
24 from the public at large by the General Assembly upon
25 recommendation of the President Pro Tempore of the Senate.
- 26 (12) One who is interested in water and air pollution control, appointed
27 from the public at large by the General Assembly upon
28 recommendation of the President Pro Tempore of the Senate.
- 29 (13) One who is interested in water and air pollution control, appointed
30 from the public at large by the General Assembly upon
31 recommendation of the President Pro Tempore of the Senate.
- 32 (14) One who is interested in water and air pollution control, appointed
33 from the public at large by the General Assembly upon
34 recommendation of the President Pro Tempore of the Senate.
- 35 (15) One who is interested in water and air pollution control, appointed
36 from the public at large by the General Assembly upon
37 recommendation of the Speaker of the House of Representatives.
- 38 (16) One who is interested in water and air pollution control, appointed
39 from the public at large by the General Assembly upon
40 recommendation of the Speaker of the House of Representatives.

1 (17) One who is interested in water and air pollution control, appointed
2 from the public at large by the General Assembly upon
3 recommendation of the Speaker of the House of Representatives.

4 (18) One who is interested in water and air pollution control, appointed
5 from the public at large by the General Assembly upon
6 recommendation of the Speaker of the House of Representatives.

7 (b) ~~Members appointed by the Governor shall serve terms of office of six~~
8 ~~years. The term of office of members of the Commission is four years. Any appointment~~
9 ~~to fill a vacancy on the Commission created by the resignation, dismissal, death or~~
10 ~~disability of a member shall be for the balance of the unexpired term. The Governor~~
11 ~~appointing authority may reappoint a member of the Commission to an additional term~~
12 ~~if, at the time of the reappointment, the member qualifies for membership on the~~
13 ~~Commission under subsection (a) of this section. Upon the expiration of a term, a~~
14 ~~member may continue to serve until a successor is appointed and duly qualified as~~
15 ~~provided by G.S. 128-7. The term of members appointed under subdivisions (1), (5),~~
16 ~~(9), (13), and (17) of subsection (a) of this section expire on 1 July of years that follow~~
17 ~~by one year those years that are evenly divisible by four. The term of members~~
18 ~~appointed under subdivisions (2), (6), (10), (14), and (18) of subsection (a) of this~~
19 ~~section expire on 1 July of years that precede by one year those years that are evenly~~
20 ~~divisible by four. The term of members appointed under subdivisions (3), (7), (11), and~~
21 ~~(15) of subsection (a) of this section expire on 1 July of years that follow by two years~~
22 ~~those years that are evenly divisible by four. The term of members appointed under~~
23 ~~subdivisions (4), (8), (12), and (16) of subsection (a) of this section expire on 1 July of~~
24 ~~those years that are evenly divisible by four.~~

25 (b1) ~~The Governor shall have the power to may remove any member of the~~
26 ~~Commission from office for misfeasance, malfeasance, or nonfeasance in accordance~~
27 ~~with the provisions of G.S. 143B-13 of the Executive Organization Act of 1973 as~~
28 ~~provided in G.S. 143B-13~~

29 (b2) The members of the Commission shall receive per diem and necessary travel
30 and subsistence expenses in accordance with the provisions of G.S. 138-5.

31 (b3) A majority of the Commission shall constitute a quorum for the transaction of
32 business.

33 (b4) All clerical and other services required by the Commission shall be supplied
34 by the Secretary of Environment and Natural Resources.

35 (c) ~~Nine-Two~~ of the members appointed by the Governor ~~under this section and~~
36 ~~all of the members appointed by the General Assembly shall be persons who do not~~
37 ~~derive any significant portion of their income from persons subject to permits or~~
38 ~~enforcement orders under this Chapter. who engage in any activity this is regulated by~~
39 ~~the Commission.~~ The Governor shall require adequate disclosure of potential conflicts
40 of interest by members. The Governor, by executive order, shall promulgate criteria
41 regarding conflicts of interest and disclosure thereof for determining the eligibility of
42 persons under this section, giving due regard to the requirements of federal legislation,

1 and for this purpose may promulgate rules, regulations or guidelines in conformance
2 with those established by any federal agency interpreting and applying provisions of
3 federal law.

4 ~~(d) In addition to the members designated by subsection (a) of this section, the~~
5 ~~General Assembly shall appoint four members, two upon the recommendation of the~~
6 ~~Speaker of the House of Representatives, and two upon the recommendation of the~~
7 ~~President Pro Tempore of the Senate. Appointments by the General Assembly shall be~~
8 made in accordance with G.S. 120-121, and vacancies in those appointments shall be
9 filled in accordance with G.S. 120-122. ~~Members appointed by the General Assembly~~
10 ~~shall serve terms of two years.~~

11 (e) In making appointments to the Commission, the appointing authorities shall
12 ensure that the geographic regions of the State are fairly represented by the membership
13 of the Commission."

14 **SECTION 2.** In order to provide for an orderly transition in membership of
15 the Environmental Management Commission and implementation of a system of
16 staggered terms of four years for members of the Commission as specified in G.S.
17 143B-283, as amended by Section 1 of this act, and in order that the terms of persons
18 who were appointed to serve as members of the Commission prior to 1 July 2001 will
19 not be altered by the implementation of this act, the following provisions apply:

- 20 (1) Franklin S. Clark, III shall serve in the position established by G.S.
21 143B-283(a)(1) until 1 July 2001. The term of the individual next
22 appointed to fill this position shall be four years and shall expire 1 July
23 2005.
- 24 (2) Moses Carey, Jr. shall serve in the position established by G.S.
25 143B-283(a)(2) until 1 July 2001. The term of the individual next
26 appointed to fill this position shall be six years and shall expire 1 July
27 2007.
- 28 (3) Robert E. Cook shall serve in the position established by G.S.
29 143B-283(a)(3) until 1 July 2003. The term of the individual next
30 appointed to fill this position shall be three years and shall expire 1
31 July 2006.
- 32 (4) E. Leo Green, Jr. shall serve in the position established by G.S.
33 143B-283(a)(4) until 1 July 2003. The term of the individual next
34 appointed to fill this position shall be five years and shall expire 1 July
35 2008.
- 36 (5) Daniel V. Besse shall serve in the position established by G.S.
37 143B-283(a)(5) until 1 July 2005. The term of the individual next
38 appointed to fill this position shall be four years and shall expire 1 July
39 2009.
- 40 (6) Ryan D. Turner shall serve in the position established by G.S.
41 143B-283(a)(6) until 1 July 2001. The term of the individual next

- 1 appointed to fill this position shall be six years and shall expire 1 July
2 2007.
- 3 (7) Frederick B. Starr shall serve in the position established by G.S.
4 143B-283(a)(7) until 1 July 2005. The term of the individual next
5 appointed to fill this position shall be five years and shall expire 1 July
6 2010.
- 7 (8) Edwin S. Melvin shall serve in the position established by G.S.
8 143B-283(a)(8) until 1 July 2001. The term of the individual next
9 appointed to fill this position shall be three years and shall expire 1
10 July 2004.
- 11 (9) Marion E. Deerhake shall serve in the position established by G.S.
12 143B-283(a)(9) until 1 July 2003. The term of the individual next
13 appointed to fill this position shall be six years and shall expire 1 July
14 2009.
- 15 (10) Charles H. Peterson shall serve in the position established by G.S.
16 143B-283(a)(10) until 1 July 2001. The term of the individual next
17 appointed to fill this position shall be six years and shall expire 1 July
18 2007.
- 19 (11) Will B. Fowler shall serve in the position established by G.S.
20 143B-283(a)(11) until 1 July 2005. The term of the individual next
21 appointed to fill this position shall be five years and shall expire 1 July
22 2010.
- 23 (12) Robert Epting shall serve in the position established by G.S.
24 143B-283(a)(12) until 1 July 2001. The term of the individual next
25 appointed to fill this position shall be three years and shall expire 1
26 July 2004.
- 27 (13) Robert G. Ray shall serve in the position established by G.S.
28 143B-283(a)(13) until 1 July 2001. The term of the individual next
29 appointed to fill this position shall be four years and shall expire 1 July
30 2005.
- 31 (14) The term of the individual first appointed to fill the position
32 established by G.S. 143B-283(a)(14) shall be two years and shall
33 expire 1 July 2003.
- 34 (15) David H. Moreau shall serve in the position established by G.S.
35 143B-283(a)(15) until 1 July 2005. The term of the individual next
36 appointed to fill this position shall be five years and shall expire 1 July
37 2010.
- 38 (16) Don Abernathy shall serve in the position established by G.S.
39 143B-283(a)(16) until 1 July 2001. The term of the individual next
40 appointed to fill this position shall be three years and shall expire 1
41 July 2004.

1 (17) Anne Barnes shall serve in the position established by G.S.
2 143B-283(a)(17) until 1 July 2001. The term of the individual next
3 appointed to fill this position shall be four years and shall expire 1 July
4 2005.

5 (18) Larry M. Jordan shall serve in the position established by G.S.
6 143B-283(a)(18) until 1 July 2003. The term of the individual next
7 appointed to fill this position shall be four years and shall expire 1 July
8 2007.

9 **SECTION 3.** This act becomes effective 1 July 2001 and, except as
10 provided in Section 2 of this act, applies to appointments made on or after that date.