

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 2676

Short Title: Extend Moratorium/Study Waste-to-Energy. (Public)

Sponsors: Representatives Tucker, Harrison, Wright (Primary Sponsors); Faison, Glazier, McComas, and Wray.

Referred to: Environment and Natural Resources, if favorable, Appropriations.

May 25, 2006

A BILL TO BE ENTITLED

1
2 AN ACT TO EXTEND AND CLARIFY THE STATEWIDE MORATORIUM ON
3 THE CONSTRUCTION OR EXPANSION OF SWINE FARMS AND TO
4 PROVIDE FOR A STUDY AND REPORT ON CURRENTLY AVAILABLE
5 INCENTIVES AND ANY NEEDED ADDITIONAL INCENTIVES TO
6 ENCOURAGE PURCHASERS AND PRODUCERS OF RENEWABLE ENERGY
7 TO COOPERATE REGARDING THE PRODUCTION AND USE OF
8 RENEWABLE ENERGY OR OTHER MARKETABLE BY-PRODUCTS
9 DERIVED FROM ANIMAL WASTE.

10 Whereas, the 1997 General Assembly established moratoria on the
11 construction or expansion of certain swine farms and on lagoons and animal waste
12 management systems for certain swine farms; and

13 Whereas, one of the original purposes of these moratoria was to allow
14 completion of certain studies related to swine farms and animal waste management
15 systems; and

16 Whereas, the 1998 General Assembly extended these moratoria and
17 established exceptions for animal waste management systems that meet certain
18 performance standards; and

19 Whereas, the 1999 General Assembly, the 2001 General Assembly, and the
20 2003 General Assembly further extended the moratoria so that moratoria have remained
21 in effect continuously since 1 March 1997; and

22 Whereas, the Animal and Poultry Waste Management Center at North
23 Carolina State University has been evaluating a number of animal waste management
24 system technologies in order to identify one or more technologies that meet the
25 performance standards established by the General Assembly and that are economically
26 feasible; and

1 Whereas, it has been determined that none of the technologies evaluated
2 during this process that met the performance standards was found also to be
3 economically feasible for use on existing swine farms; and

4 Whereas, it appears that additional time is needed to continue the evaluation
5 of these technologies as well as other potential technologies that could enhance the
6 current state of animal waste management systems; and

7 Whereas, it appears that, because of the duration of the moratoria, hardships
8 have been created for property owners, estates, and others needing or desiring to
9 withdraw from farming without unacceptable or unreasonable financial hardship, and
10 other issues concerning the interpretation and application of the moratoria have arisen;
11 and

12 Whereas, hog production and a clean and safe environment are both
13 important to the farming community and economy of North Carolina; and

14 Whereas, ensuring the long-term viability and sustainability of hog
15 production is in the long-term best interest of the State; and

16 Whereas, it further appears that any legislation that may be enacted by the
17 2006 Session of the General Assembly would take some time to become fully
18 implemented; Now, therefore,

19 The General Assembly of North Carolina enacts:

20 **SECTION 1.** Subsection (a1) of Section 1.1 of S.L. 1997-458, as amended
21 by Section 2 of S.L. 1998-188, Section 2.1 of S.L. 1999-329, Section 1 of S.L.
22 2001-254, and Section 1 of S.L. 2003-266, reads as rewritten:

23 "(a1) There is hereby established a moratorium on the construction or expansion of
24 swine farms and on lagoons and animal waste management systems for swine farms.
25 The purposes of this moratorium are to allow time for the completion of ongoing
26 evaluations of animal waste management technologies and related research and studies;
27 to allow the General Assembly to receive and act on the findings and recommendations
28 of those evaluations, research, and studies; and to allow for the implementation of any
29 legislation that may be enacted. Except as provided in subsection (b) of this section, the
30 Environmental Management Commission shall not issue a permit for an animal waste
31 management system for a new swine farm or the expansion of an existing swine farm
32 for a period beginning on 1 March 1997 and ending on 1 September 2007. ~~The
33 construction or expansion of a swine farm or animal waste management system for a
34 swine farm is prohibited during the period of the moratorium regardless of the date on
35 which a site evaluation for the swine farm is completed and regardless of whether the
36 animal waste management system is permitted under G.S. 143-215.1 or Part 1A of
37 Article 21 of Chapter 143 of the General Statutes or deemed permitted under 15A North
38 Carolina Administrative Code 2H.0217.2012.~~"

39 **SECTION 2.** The Department of Commerce, in consultation with the
40 Department of Revenue, shall conduct a study and shall prepare and submit a report
41 based on the results of the study to the Agriculture and Forestry Awareness Study
42 Commission no later than October 15, 2006. During the study, the Department shall
43 examine and discuss ways to encourage swine producers and utility providers to
44 cooperate in the production and use of renewable energy or other marketable

1 by-products derived from animal waste, including an examination of tax incentives,
2 carbon sequestration credits and trading mechanisms, expedited permitting of animal
3 waste management systems that generate energy, and other means to increase the
4 likelihood that economically feasible and sustainable versions of such animal waste
5 management system technologies will be developed, tried, and utilized on swine farms.

6 This study and the report shall include a discussion of:

7 (1) All technologies that are currently available under North Carolina law
8 and rule that are capable of producing renewable energy or other
9 marketable by-products derived from animal waste and can be used by
10 the utility providers, and

11 (2) Based on a survey and review of the laws, rules, and similar activities
12 of other states to encourage these activities, any other such
13 technologies that comply with North Carolina law and rule that should
14 be available in North Carolina.

15 **SECTION 3.** The Agriculture and Forestry Awareness Study Commission
16 may, based on its review of the report under Section 2 of this act, make any
17 recommendations, including any related legislative proposals, to the 2007 General
18 Assembly.

19 **SECTION 4.** There is appropriated from the General Fund to the
20 Department of Commerce the sum of five thousand dollars (\$5,000) for the 2006-2007
21 fiscal year for the costs of conducting the study and preparing its report under Section 2
22 of this act.

23 **SECTION 5.** This act is effective when it becomes law.