

N.C. General Statutes Referenced in the Internal Operating Procedures
of the Sedimentation Control Commission of North Carolina

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N.C.G.S. § 113A-50, et. seq. - Sedimentation Pollution Control Act

N.C.G.S. § 138A – State Government Ethics Act

N.C.G.S. § 150B – Administrative Procedure Act

§ 113A-54. Powers and duties of the Commission.

(a) The Commission shall, in cooperation with the Secretary of Transportation and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(b) The Commission shall develop and adopt and shall revise as necessary from time to time, rules and regulations for the control of erosion and sedimentation resulting from land-disturbing activities. The Commission shall adopt or revise its rules and regulations in accordance with Chapter 150B of the General Statutes.

(c) The rules and regulations adopted pursuant to G.S. 113A-54(b) for carrying out the erosion and sedimentation control program shall:

- (1) Be based upon relevant physical and developmental information concerning the watershed and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, grading, ground cover, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;
- (2) Include such survey of lands and waters as may be deemed appropriate by the Commission or required by any applicable laws to identify those areas, including multijurisdictional and watershed areas, with critical erosion and sedimentation problems; and
- (3) Contain conservation standards for various types of soils and land uses, which standards shall include criteria and alternative techniques and methods for the control of erosion and sedimentation resulting from land-disturbing activities.

(d) In implementing the erosion and sedimentation control program, the Commission shall:

- (1) Assist and encourage local governments in developing erosion and sedimentation control programs and, as a part of this assistance, the Commission shall develop a model local erosion and sedimentation control ordinance. The Commission shall approve, approve as modified, or disapprove local programs submitted to it pursuant to G.S. 113A-60.
- (2) Assist and encourage other State agencies in developing erosion and sedimentation control programs to be administered in their jurisdictions. The Commission shall approve, approve as modified, or disapprove programs submitted pursuant to G.S. 113A-56 and from time to time shall review these programs for compliance with rules adopted by the Commission and for adequate enforcement.
- (3) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques appropriate for use by persons engaged in land-disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of this Article and erosion and sedimentation control rules, ordinances, regulations, and plans.
- (4) Require submission of erosion and sedimentation control plans by those responsible for initiating land-disturbing activities for approval prior to commencement of the activities.

(e) To assist it in developing the erosion and sedimentation control program required by this Article, the Commission is authorized to appoint an advisory committee consisting of technical experts in the fields of water resources, soil science, engineering, and landscape architecture.

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(f) Repealed by Session Laws 1987, c. 827, s. 10, effective August 13, 1987.

(g) The Commission is authorized to make the final decision on a request for the remission of a civil penalty under G.S. 113A-64.2. (1973, c. 392, s. 5; c. 1331, s. 3; c. 1417, s. 6; 1975, 2nd Sess., c. 983, s. 74; 1977, c. 464, s. 35; 1979, c. 922, s. 2; 1983 (Reg. Sess., 1984), c. 1014, ss. 1, 2; 1987, c. 827, s. 10; 1987 (Reg. Sess., 1988), c. 1000, s. 3; 1989, c. 676, s. 1; 1993 (Reg. Sess., 1994), c. 776, s. 3; 2002-165, ss. 2.2, 2.3; 2015-241, s. 14.26(a).)

§ 113A-61. Local approval of erosion and sedimentation control plans.

(a) For those land-disturbing activities for which prior approval of an erosion and sedimentation control plan is required, the Commission may require that a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 require the applicant to submit a copy of the erosion and sedimentation control plan to the appropriate soil and water conservation district or districts at the same time the applicant submits the erosion and sedimentation control plan to the local government for approval. The soil and water conservation district or districts shall review the plan and submit any comments and recommendations to the local government within 20 days after the soil and water conservation district received the erosion and sedimentation control plan or within any shorter period of time as may be agreed upon by the soil and water conservation district and the local government. Failure of a soil and water conservation district to submit comments and recommendations within 20 days or within agreed upon shorter period of time shall not delay final action on the proposed plan by the local government.

(b) Local governments shall review each erosion and sedimentation control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A local government shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

(b1) A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (b3) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

- (1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.
- (2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.
- (3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.
- (4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(b2) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by a local government pursuant to subsection (b1) of this section, the local government shall so notify the Director of the Division of Energy, Mineral, and Land Resources within 10 days of the disapproval. The local government shall advise the applicant or the proposed transferee and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of subsection (c) of this section, the applicant may appeal the local government's disapproval of the plan directly to the Commission. For purposes of this subsection and subsection (b1) of this section, an applicant's record or the proposed transferee's record may be considered for only the two years prior to the application date.

(b3) A local government administering an erosion and sedimentation control program may transfer an erosion and sedimentation control plan approved pursuant to this section

without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

- (1) The local government may transfer a plan if all of the following conditions are met:
 - a. The successor-owner of the property submits to the local government a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
 - b. The local government finds all of the following:
 1. The plan holder is one of the following:
 - I. A natural person who is deceased.
 - II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - IV. A person who has sold the property on which the permitted activity is occurring or will occur.
 2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
 3. The successor-owner is the sole claimant of the right to engage in the permitted activity.
 4. There will be no substantial change in the permitted activity.
- (2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.
- (3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.
- (4) Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(c) The disapproval or modification of any proposed erosion and sedimentation control plan by a local government shall entitle the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. If the local government upholds the disapproval or modification of a proposed erosion and sedimentation control plan following the public hearing, the person submitting the erosion and sedimentation control plan is entitled to appeal the local government's action disapproving or modifying the plan to the Commission. The Commission, by regulation, shall direct the Secretary to appoint such employees of the Department as may be necessary to hear appeals from the disapproval or modification of erosion and sedimentation control plans by local governments. In addition to providing for the appeal of local government decisions disapproving or modifying erosion and sedimentation control plans to designated employees of the Department, the Commission shall designate an erosion and sedimentation control plan review committee consisting of three members of the Commission. The person submitting the erosion and sedimentation control plan may appeal the decision of an employee of the Department who has heard an appeal of a local government action disapproving or modifying an erosion and sedimentation control plan to the erosion and

sedimentation control plan review committee of the Commission. Judicial review of the final action of the erosion and sedimentation control plan review committee of the Commission may be had in the superior court of the county in which the local government is situated.

(d) Repealed by Session Laws 1989, c. 676, s. 4. (1973, c. 392, s. 12; 1979, c. 922, s. 1; 1989, c. 676, s. 4; 1993 (Reg. Sess., 1994), c. 776, ss. 8, 9; 1998-221, s. 1.11(b); 1999-379, s. 3; 2002-165, s. 2.9; 2012-143, s. 1(f); 2013-121, s. 4.)

§ 113A-64. Penalties.

(a) Civil Penalties. –

- (1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars (\$25,000).
- (2) The Secretary or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty, the reason for assessing the penalty, the option available to that person to request a remission of the civil penalty under G.S. 113A-64.2, the date of the deadline for that person to make the remission request regarding this particular penalty, and, when that person has not been assessed any civil penalty under this section for any previous violation, the date of the deadline for that person to abate continuing environmental damage resulting from the violation in order to be subject to the maximum cumulative total civil penalty under subdivision (1) of this subsection. The notice of assessment shall be served by any means authorized under G.S. 1A-1. A notice of assessment by the Secretary shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. A notice of assessment by a local government shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for hearing with the local government as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that

is contested is due at the conclusion of the administrative and judicial review of the assessment.

- (3) In determining the amount of the penalty, the Secretary or a local government shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article, or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government.
- (4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.
- (5) The clear proceeds of civil penalties collected by the Department or other State agency or a local government under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(b) **Criminal Penalties.** – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000). (1973, c. 392, s. 15; 1977, c. 852; 1987, c. 246, s. 3; 1987 (Reg. Sess., 1988), c. 1000, s. 5; 1989, c. 676, s. 6; 1991, c. 412, s. 2; c. 725, s. 5; 1993, c. 539, s. 873; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 776, s. 11; 1998-215, s. 52; 1999-379, s. 4; 2002-165, s. 2.12; 2013-413, s. 33; 2015-241, s. 14.26(b).)

§ 113A-64.2. Remission of civil penalties.

(a) A request for remission of a civil penalty imposed under G.S. 113A-64 may be filed with the Commission within 60 days of receipt of the notice of assessment. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the General Statutes and a stipulation of the facts on which the assessment was based.

(b) The following factors shall be considered in determining whether a civil penalty remission request will be approved:

- (1) Whether one or more of the civil penalty assessment factors in G.S. 113A-64(a)(3) were wrongly applied to the detriment of the petitioner.
- (2) Whether the petitioner promptly abated continuing environmental damage resulting from the violation.
- (3) Whether the violation was inadvertent or a result of an accident.
- (4) Whether the petitioner had been assessed civil penalties for any previous violations.
- (5) Whether payment of the civil penalty will prevent payment for necessary remedial actions or would otherwise create a significant financial hardship.
- (6) The assessed property tax valuation of the petitioner's property upon which the violation occurred, excluding the value of any structures located on the property.

(c) The petitioner has the burden of providing information concerning the financial impact of a civil penalty on the petitioner and the burden of showing the petitioner's financial hardship.

(d) The Commission may remit the entire amount of the penalty only when the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.

(e) The Commission may not impose a penalty under this section that is in excess of the civil penalty imposed by the Department. (2015-241, s. 14.26(c).)

§ 143-318.11. Closed sessions.

(a) Permitted Purposes. – It is the policy of this State that closed sessions shall be held only when required to permit a public body to act in the public interest as permitted in this section. A public body may hold a closed session and exclude the public only when a closed session is required:

- (1) To prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States, or not considered a public record within the meaning of Chapter 132 of the General Statutes.
- (2) To prevent the premature disclosure of an honorary degree, scholarship, prize, or similar award.
- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.
- (4) To discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations, or to discuss matters relating to military installation closure or realignment. Any action approving the signing of an economic development contract or commitment, or the action authorizing the payment of economic development expenditures, shall be taken in an open session.
- (5) To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating (i) the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease; or (ii) the amount of compensation and other material terms of an employment contract or proposed employment contract.
- (6) To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

- (7) To plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.
 - (8) To formulate plans by a local board of education relating to emergency response to incidents of school violence or to formulate and adopt the school safety components of school improvement plans by a local board of education or a school improvement team.
 - (9) To discuss and take action regarding plans to protect public safety as it relates to existing or potential terrorist activity and to receive briefings by staff members, legal counsel, or law enforcement or emergency service officials concerning actions taken or to be taken to respond to such activity.
 - (10) To view a recording released pursuant to G.S. 132-1.4A.
- (b) Repealed by Session Laws 1991, c. 694, s. 4.
- (c) Calling a Closed Session. – A public body may hold a closed session only upon a motion duly made and adopted at an open meeting. Every motion to close a meeting shall cite one or more of the permissible purposes listed in subsection (a) of this section. A motion based on subdivision (a)(1) of this section shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on subdivision (a)(3) of this section shall identify the parties in each existing lawsuit concerning which the public body expects to receive advice during the closed session.
- (d) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 570, s. 2. (1979, c. 655, s. 1; 1981, c. 831; 1985 (Reg. Sess., 1986), c. 932, s. 5; 1991, c. 694, ss. 3, 4; 1993 (Reg. Sess., 1994), c. 570, s. 2; 1995, c. 509, s. 84; 1997-222, s. 2; 1997-290, s. 2; 2001-500, s. 2; 2003-180, s. 2; 2013-360, s. 8.41(b); 2014-79, s. 9(a); 2016-88, s. 3.)

§ 143-318.12. Public notice of official meetings.

(a) If a public body has established, by ordinance, resolution, or otherwise, a schedule of regular meetings, it shall cause a current copy of that schedule, showing the time and place of regular meetings, to be kept on file as follows:

- (1) For public bodies that are part of State government, with the Secretary of State;
- (2) For the governing board and each other public body that is part of a county government, with the clerk to the board of county commissioners;
- (3) For the governing board and each other public body that is part of a city government, with the city clerk;
- (4) For each other public body, with its clerk or secretary, or, if the public body does not have a clerk or secretary, with the clerk to the board of county commissioners in the county in which the public body normally holds its meetings.

If a public body changes its schedule of regular meetings, it shall cause the revised schedule to be filed as provided in subdivisions (1) through (4) of this subsection at least seven calendar days before the day of the first meeting held pursuant to the revised schedule.

(b) If a public body holds an official meeting at any time or place other than a time or place shown on the schedule filed pursuant to subsection (a) of this section, it shall give public notice of the time and place of that meeting as provided in this subsection.

- (1) If a public body recesses a regular, special, or emergency meeting held pursuant to public notice given in compliance with this subsection, and the time and place at which the meeting is to be continued is announced in open session, no further notice shall be required.
- (2) For any other meeting, except an emergency meeting, the public body shall cause written notice of the meeting stating its purpose (i) to be posted on the principal bulletin board of the public body or, if the public body has no such bulletin board, at the door of its usual meeting room, and (ii) to be mailed, e-mailed, or delivered to each newspaper, wire service, radio station, and television station that has filed a written request for notice with the clerk or secretary of the public body or with some other person designated by the public body. The public body shall also cause notice to be mailed, e-mailed, or delivered to any person, in addition to the representatives of the media listed above, who has filed a written request with the clerk, secretary, or other person designated by the public body. This notice shall be posted and mailed, e-mailed, or delivered at least 48 hours before the time of the meeting. The notice required to be posted on the principal bulletin board or at the door of its usual meeting room shall be posted on the door of the building or on the building in an area accessible to the public if the building containing the principal bulletin board or usual meeting room is closed to the public continuously for 48 hours before the time of the meeting. The public body may require each newspaper, wire service, radio station, and television station submitting a written request for notice to renew the request annually. The public body shall charge a fee to persons other than the media, who request notice, of ten dollars (\$10.00) per calendar year, and may require them to renew their requests quarterly. No fee shall be charged for notices sent by e-mail.
- (3) For an emergency meeting, the public body shall cause notice of the meeting to be given to each local newspaper, local wire service, local radio station,

and local television station that has filed a written request, which includes the newspaper's, wire service's, or station's telephone number, for emergency notice with the clerk or secretary of the public body or with some other person designated by the public body. This notice shall be given either by e-mail, by telephone, or by the same method used to notify the members of the public body and shall be given immediately after notice has been given to those members. This notice shall be given at the expense of the party notified. Only business connected with the emergency may be considered at a meeting to which notice is given pursuant to this paragraph.

- (c) Repealed by Session Laws 1991, c. 694, s. 6.
- (d) If a public body has a Web site and has established a schedule of regular meetings, the public body shall post the schedule of regular meetings to the Web site.
- (e) If a public body has a Web site that one or more of its employees maintains, the public body shall post notice of any meeting held under subdivisions (b)(1) and (b)(2) of this section prior to the scheduled time of that meeting.
- (f) For purposes of this section, an "emergency meeting" is one called because of generally unexpected circumstances that require immediate consideration by the public body. (1979, c. 655, s. 1; 1991, c. 694, ss. 5, 6; 2009-350, s. 1.)

§ 143B-13. Appointment, qualifications, terms, and removal of members of commissions.

(a) Each member of a commission created by or under the authority of the Executive Organization Act of 1973 shall be a resident of the State of North Carolina, unless otherwise specifically authorized by law.

Unless more restrictive qualifications are provided in the Executive Organization Act of 1973, the Governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field for which appointed, and with a view to providing diversity of interest and points of view in the membership.

The balance of unexpired terms of existing commission members shall be served in accordance with their most recent appointment.

A vacancy occurring during a term of office is filled in the same manner as the original appointment is made and for the balance of the unexpired term, unless otherwise provided by law or by the Constitution of North Carolina.

(b) A commission membership becomes vacant on the happening of any of the following events before the expiration of the term: (i) the death of the incumbent, (ii) his incompetence as determined by final judgment or final order of a court of competent jurisdiction, (iii) his resignation, (iv) his removal from office, (v) his ceasing to be a resident of the State, (vi) his ceasing to discharge the duties of his office over a period of three consecutive months except when prevented by sickness, (vii) his conviction of a felony or of any offense involving a violation of his official duties, (viii) his refusal or neglect to take an oath within the time prescribed, (ix) the decision of a court of competent jurisdiction declaring void his appointment, and (x) his commitment as a substance abuser under Part 8 of Article 5 of Chapter 122C of the General Statutes; but in that event, the office shall not be considered vacant until the order of commitment has become final.

(c) No member of the State commission may use his position to influence any election or the political activity of any person, and any such member who violates this subsection may be removed from such office by the Governor, if such member was appointed by the Governor, or by the appointing authority, if such member was not appointed by the Governor. Nothing herein shall prohibit such member from publishing the fact of his membership in his own campaign for public office.

(d) In addition to the foregoing, any member of a commission may be removed from office by the Governor for misfeasance, malfeasance, and nonfeasance.

(e) Any appointment by the Governor to a commission, board, council or committee made subsequent to January 5, 1973, and prior to July 1, 1973, for a term that would extend for a period inconsistent with the staggered term provisions of the Executive Organization Act of 1973, may be reduced by the Governor to conform to those staggered term provisions.

(f) Whenever a statute requires that the Governor appoint at least one person from each congressional district to a board or commission, and due to congressional redistricting, two or more members of the board or commission shall reside in the same congressional district, then such members shall continue to serve as members of the board or commission for a period equal to the remainder of their unexpired terms, provided that upon the expiration of said term or terms the Governor shall fill such vacancy or vacancies in such a manner as to insure that as expeditiously as possible there is one member of the board or commission who is a resident of each congressional district in the State.

(f1) Whenever a statute requires that the Governor or any board, commission, council, person, or agency (whether or not that board, commission, council, or agency was established under this Chapter) appoint one or more persons from each congressional district to a board, commission, or council, and due to congressional redistricting, a person no longer resides in the district the member has been appointed to represent, such member or members shall, if

otherwise qualified, continue to serve as members of the board or commission for the remainder of their unexpired terms, and shall be considered to meet the residency requirement.

(f2) Whenever a statute requires that the Governor or any board, commission, council, person, or agency (whether or not that board, commission, council, or agency was established under this Chapter) appoint one or more persons from each congressional district to a board, commission, or council, and the statute fails to provide for a procedure to fill the extra position due to the addition of an additional congressional district, then the appointing authority shall appoint a person for a term commencing on January 3rd of the year in which the addition of the additional congressional district becomes effective. Unless the statute provides for persons to serve at the pleasure of the appointing authority, the appointing authority shall set the length of the initial term of office. (1973, c. 476, s. 13; 1975, c. 879, s. 47; 1981, c. 520, s. 1; 1981 (Reg. Sess., 1982), c. 1191, s. 5; 1985, c. 589, ss. 45, 46; 1991 (Reg. Sess., 1992), c. 1038, s. 16.)

Part 8. Sedimentation Control Commission.

§ 143B-298. Sedimentation Control Commission – creation; powers and duties.

There is hereby created the Sedimentation Control Commission of the Department of Environmental Quality with the power and duty to develop and administer a sedimentation control program as herein provided.

The Sedimentation Control Commission has the following powers and duties:

- (1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.
- (2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.
- (3) Conduct public hearings pursuant to G.S. 113A-54.
- (4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.
- (5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.
- (6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54. (1973, c. 1262, s. 39; 1977, c. 771, s. 4; 1989, c. 727, s. 218(137); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(u).)

§ 143B-299. Sedimentation Control Commission – members; selection; compensation; meetings.

(a) Creation; Membership. – There is hereby created in the Department of Environmental Quality the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

- (1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners.
- (2) A person to be nominated by the Board of the North Carolina Home Builders Association.
- (3) A person to be nominated by the Carolinas Branch, Associated General Contractors of America.
- (4) A representative of a North Carolina public utility company.
- (5) The Director of the North Carolina Water Resources Research Institute.
- (6) A member of the North Carolina Mining Commission who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b).
- (7) A member of the State Soil and Water Conservation Commission.
- (8) A member of the Environmental Management Commission.
- (9) A soil scientist from the faculty of North Carolina State University.
- (10) Two persons who shall be representatives of nongovernmental conservation interests.
- (11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc.

(b) Appointment. – The Commission members shall be appointed by the Governor. All Commission members, except the person appointed under subdivision (5) of subsection (a) of this section, shall serve staggered terms of three years and until their successors are appointed and duly qualified. The person appointed under subdivision (5) of subsection (a) of this section shall serve as a member of the Commission, subject to removal by the Governor as hereinafter specified in this section, so long as the person continues as Director of the Water Resources Research Institute. The terms of members appointed under subdivisions (2), (4), (7), and (8) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The terms of members appointed under subdivisions (1), (3), and (10) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivisions (6), (9), and (11) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Except for the person appointed under subdivision (5) of subsection (a) of this section, no member of the Commission shall serve more than two complete consecutive three-year terms. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance, or because they no longer possess the required qualifications for membership. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Sec. 9, of the North Carolina Constitution.

(b1) Chair. – The Governor shall designate a member of the Commission to serve as chair.

(c) Compensation. – The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. – The Commission shall meet at the call of the chair and shall hold special meetings at the call of a majority of the members. (1973, c. 1262, s. 40; 1977, c. 771, s. 4; 1981, c. 248, ss. 1, 2; 1989, c. 727, s. 218(138); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991, c. 551, s. 1; 1997-443, s. 11A.119(a); 2006-79, s. 9; 2010-180, s. 10; 2012-143, s. 1(d); 2014-4, s. 5(c); 2015-241, s. 14.30(u).)