

## How new NC laws passed by the legislature affect the Mining and Energy Commission

- No provision for funding a study of Local Government Impacts (it was in earlier S76 bill, not in final).
- No Trade Secrets/Chemical Disclosure section in any bill sent to Governor (I checked S76, H74, H92, S402 for technical corrections)

### **S76 Energy (also deals with offshore oil and amends 1975 Energy Policy Act)**

1. Changes language in MEC “membership” section that allows the County Government appointment (James Womack, Lee County) and Municipal Government (Charles Taylor, City of Sanford) to serve out their MEC term (*expires June 30, 2016*) EVEN if *not* re-elected in the 2014 local election cycle.
2. Amy Pickle (my hero) serves because she is the Speaker of House appointment representing the Environmental Management Commission (EMC). Legislation just passed, (S402), EXPIRES all existing EMC appointments as of July 31, so Gov can appoint new, “business” friendly non-scientists. *The only way to keep her on MEC is if Governor McCrory appoints her in the new at-large membership slot. And your bet*
3. Subsurface injection of fracturing fluids. See next, item. This item was added under the Coordinated permit process...some MEC members against this.
4. New studies required:
  - a. *Coordinated permit process*, already underway (report March 2014);
  - b. *Expand current study on severance taxes* (money paid to state when minerals/gas are extracted) to include infrastructure impacts, “mentions” local governments, and recovery of DENR administrative costs for this program. Study to also address “emergency events” and costs of emergency preparation, response, says State would pursue cost recovery from perpetrators (report April 2014).
  - c. *Landmen registry within DENR*, study the process and see what other states do; good for NC? (report April 2015).
5. Bonding. All drilling operators currently file a bond of \$5,000 plus one dollar per linear foot to be drilled. New section: In addition, MEC is authorized to set bonds relating to number of wells at a site, pre-drilling condition of property, amount of acreage impacted so bonds can be established on site-by-site basis. See next.
6. Presumptive liability for responsibility for reclamation. New section on setting Bond amount sufficient to cover cost of reclamation of surface owner’s property. The bond amount will be set by the MEC.
7. MEC may limit the amount of oil (including condensate gas) produced in State and distribute the “allowable” among pools. This was a language change from shall to may. Can’t play favorites in allocation to one pool (say Lee County) vs.

another pool in another County. State laws are predicated on “prevention of waste” in drilling for oil/gas.

8. No permits can be issued until General Assembly takes legislative action, but DENR should be ready to issue permits by March 1, 2015.

#### **H74 Streamline Regulatory Process**

This limits authority of local governments to “exceed” rules established by an environmental agency...such as MEC. Jump thru hoops for local control.

...Notwithstanding any other provision of law and except as authorized by this section, a city or county may not enact an ordinance that regulates a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency. A city or county may enact an ordinance that regulates a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulates a field that is also regulated by a rule adopted by an environmental agency if the ordinance is approved by a unanimous vote of the members present and voting.

SECTION 10.2(b) For The Environmental Review Commission shall study the circumstances under which cities and counties should be authorized to enact ordinances (i) that regulate a field that is also regulated by a State or federal statute enforced by an environmental agency or that regulate a field that is also regulated by a rule adopted by an environmental agency and (ii) that are more stringent than the State or federal statute or State rule. The Environmental Review Commission shall report its findings and recommendations to the 2014 Regular Session of the 2013 General Assembly.

*Diana Hales, retired*