

Reject the Conference Report for H765, Regulatory Reform Act of 2015

As reported out of conference, **H765, Regulatory Reform Act of 2015**, is not a 'good compromise bill'. Instead, it needlessly rolls back protections for air, water, groundwater, and land across North Carolina.

Section 4.1: Environmental Self-Audit Privilege and Limited Immunity

- Exempts companies that self-report environmental violations from penalties, and grants legal privilege to internal company reports documenting causes and impacts of violations. As such, reduces deterrent effect of penalties and allows bad actors unfair advantage over responsible companies. As modified in conference, allows criminal investigation to pierce the privilege, but hides the information from neighbors and communities seeking civil redress even *for the same violations*.

Section 4.2: Recycling and Solar Panel Studies

- Directs the NC Department of Environment & Natural Resources (DENR) to conduct two studies. The first includes appropriate stakeholders and will examine the financial mechanisms that sustain local e-waste collection programs. The second study, on the potential impacts and disposal of solar panels, lacks public stakeholders or a transparent process and seems likely to result in a biased report.

Section 4.7: Risk Remediation

- Radically expands a state program that lets polluters avoid cleaning up soil and groundwater contamination if they impose land use restrictions. As expanded, the program will cover most sources of contamination, past, present and future, and will reduce final protections for neighbors and the environment. The final text excludes coal ash pits and hog lagoons. That's appropriate, but if it isn't safe for those, how is it safe for other lower-profile but equally dangerous kinds of contamination?

Section 4.9: Life of Landfill Permits

- Lengthens ten year landfills permits to life-of-site, while dropping fees to levels that will not support adequate agency staffing, and without requiring automatic five-year oversight reviews to identify noncompliance or changed conditions. Similar language was in the budget, SL2015-241, but the H765 provision also folds major permit modifications into a single review process with new permits.

Section 4.17: Contested Cases for Air Permits

- Allows industries that do not want to comply with a more protective revised permit to continue to pollute under the existing permit while challenging the stricter permit. On the other hand, if permit limits are relaxed, the industry can pollute more immediately, even when the permit is challenged. H765 thus undermines the rights of citizens and neighbors who challenge weak air permits by creating an uneven playing field between their rights and the rights of polluters.

Section 4.18: Isolated Wetlands

- Exempts from regulation of impacts to isolated wetlands up to 1 acre in the coastal region, up to ½ acre in the Piedmont, and up to ⅓ acre in the mountains. Most isolated wetlands in each of these regions are smaller in size than the threshold set for them. Isolated wetlands protect water quality, provide habitat, and control downstream flooding. Even above the permitting threshold, projects are allowed to destroy wetlands and mitigate for them, so the change isn't about whether development can happen, but whether it protects water quality in the process. Mitigation is not required at all for the portion of permitted isolated wetlands destruction below the regional threshold, so these provisions taken together mean most isolated wetlands across the state can be destroyed without replacing their benefits. This provision effectively lets development push the costs of dirty water onto everyone else.

Section 4.19: Coastal Stormwater Requirements

- Relaxes requirements for controlling stormwater pollution from resort development on the coast, providing no upper limit on the amount of development in the riparian buffer or any limit on the amount of stormwater that could be routed through the buffer.

Section 4.24: Idling Rules

- Repeals a state rule that limits heavy duty truck idling to 5 minutes at a time. Left to run, these heavy duty engines emit particulate pollution that harms developing children and vulnerable seniors. Since cost competitive alternatives to idling are available, this change is not needed to protect the economy.

Section 4.25: Air Monitors

- Significantly reduces the number of state air quality monitors, which are vital not only for detecting unexpected declines in air quality, but also, on a daily basis, are used by vulnerable North Carolinians to protect themselves from life-threatening reactions to ambient pollution.

Section 4.27: Air Quality Notice Requirements

- Reduces public access to information regarding air pollution in their neighborhood. Eliminates requirement to publish notice of an air quality violation or of a public hearing regarding an air quality violation in the newspaper, and places it on the agency website instead. This is problematic in areas of the state where residents do not have access to the internet.

Section 4.30: Intermittent Streams

- Allows destruction of intermittent streams – streams that flow in winter and spring but dry up in the hot part of the summer – with no requirement for offsetting mitigation elsewhere. Nearly half of North Carolina’s stream miles are ‘intermittent’ streams; they provide vital habitat and pollution control for drinking water downstream.