

March 14, 2007

H 820. AMEND NATURAL RESOURCES LAWS 2007. Filed 3/14/07. *TO AMEND CERTAIN NATURAL RESOURCES LAWS TO CLARIFY THAT DRAFT FISHERY MANAGEMENT PLANS ARE NOT SUBMITTED FOR REVIEW TO THE ENVIRONMENTAL REVIEW COMMISSION, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.*

Amends GS 113-182.1 to remove the option of submitting draft fishery management plans to the Environmental Review Commission.

Intro. by Allen, Gibson.

GS 113

July 26, 2007

H 820. AMEND INTERBASIN TRANSFER LAWS (NEW). Filed 3/14/07. Senate committee substitute deletes the provisions of the 1st edition and replaces it with *AN ACT TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN AND THE ALLOCATION OF SURFACE WATER RESOURCES AND TO AMEND THE LAWS GOVERNING THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN.* The bill is similar to the 2nd edition of S 1421.

Study. Requires the Environmental Review Commission (ERC) to study the allocation of surface water resources and their availability and maintenance in the state, including an evaluation of the benefits of establishing procedures for negotiating transfers of water from one river basin to another. Requires the ERC to submit a final report to the 2009 General Assembly and allows an interim report to the 2008 session. Requires the Department of Environment and Natural Resources (DENR), Division of Water Resources in consultation with the ERC, to prepare a revised major river basin and sub-basins map. Requires the ERC to recommend a revised map and legislative proposal to amend the definition of *river basin* in GS 143-215.22G.

Certificate. Repeals GS 143-215.22I (regulation of surface water transfers) and instead enacts new GS 143-215.22L prohibiting the following actions without first obtaining a certificate: (1) initiating a transfer of two million gallons or more of water per day from one river basin to another; (2) increasing the amount of an existing transfer from one river basin to another by 25% or more above the average daily amount transferred during the year ending July 1, 1993, if the total transfer including the increase is two million gallons or more per day; and (3) increasing an existing transfer of water from one river basin to another above the amount approved by the Environmental Management Commission (EMC) in a certificate issued before July 1, 1993. Makes an exception for transferring water from one river basin to another up to the full capacity of a facility to transfer water if the facility existed or was being constructed on July 1, 1993. Also requires the payment of a \$10,000 fee.

Notice and public hearings. Requires an applicant to petition the EMC for a certificate and requires the applicant to provide notice of the intent to file a petition, to hold public meetings, and to accept written comments. Provides for how notice of the public meetings and comments must be given.

Environmental impacts. Requires the DENR to study the environmental impacts of any proposed water transfer that requires a certificate and requires an environmental assessment to be prepared. Provides for when an environmental impact statement is required and for the content of any environmental impact statement. Requires the EMC to hold a public hearing on the draft environmental document for a proposed interbasin transfer after 30 days' written notice. Enumerates information that must be included in the petition. Prohibits the EMC from acting on a petition until the EMC determines that the environmental document is complete and adequate, and requires the EMC to issue a draft determination on whether to grant the certificate within 90 days upon the later of determining that the environmental document is adequate or when the applicant submits its petition. Requires the appointment of a mediation officer within 30 days after filing a petition, to initiate settlement discussions. Requires the EMC to hold a public hearing 60 days after issuing its draft determination.

Final determination. Specifies factors that must be considered by the EMC in determining whether to issue a certificate for transfer and requires the EMC to state written findings and conclusion on each item. Also enumerates the sources of information that may be considered in

determining whether to issue a certificate and establishes the burden and standard of proof. Authorizes the EMC to grant the certificate in whole or in part, or to deny the certificate, allows conditions or limitations to be imposed, and requires the certificate to include listed conditions and limitations, including a water conservation plan and drought management plan. Provides that administrative and judicial review of the EMC's final decision is governed by the Administrative Procedure Act.

Misc. Provides that for applications for an increase in a transfer that existed on July 1, 1993, the EMC may approve or disapprove only the amount of the increase. Provides for the approval of emergency transfers. Requires an applicant to submit a plan for addressing future water needs when the transfer for which a certificate was issued equals or exceeds 80% of the maximum amount authorized in the certificate and requires the implementation of the plan when the transfer equals or exceeds 90% of the maximum authorized amount. States that it is public policy that the needs in a receiving basin are subordinate to needs in a source river basin. Makes conforming changes to GS 113A-8.1 and GS 143-215.6A(a)(9). Changes the title.

July 27, 2007

H 820. AMEND INTERBASIN TRANSFER LAWS. Filed 3/14/07. Senate amendment makes the following changes to 2nd edition. Amendment #1 deletes the section of the bill that sets out findings of the General Assembly to support the legislation and replaces that section with the requirement that the Environmental Review Commission study and make recommendations about the items and issues that had been listed as findings. The Commission must study and make recommendations to (1) ensure that the purposes of the Regional Water Supply Planning Act of 1971 are fulfilled, (2) provide for a comprehensive system for regulating surface water withdrawals, (3) provide for the development of a statewide plan for water resources development projects, (4) provide adequate resources to the Department of Environment and Natural Resources, (5) ensure that state laws regulating water resources are consistent and integrated into the system for regulating water withdrawals, and (6) ensure that potential interstate conflicts regarding water resources are avoided or minimized. Amendment #2 specifies an effective date of January 1, 2011, for petitions for a certificate for transfer of surface water from one river basin to another to supplement ground water supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area. Before that effective date, these petitions are to be considered and acted upon by the Environmental Management Commission.

August 1, 2007

H 820. AMEND INTERBASIN TRANSFER LAWS. Filed 3/14/07. Conference report recommends changes to 3rd edition to reconcile matters in controversy, to be digested in tomorrow's *Daily Bulletin*.

August 2, 2007

H 820. AMEND INTERBASIN TRANSFER LAWS. Filed 3/14/07. Conference report recommends changes to 3rd edition to reconcile matters in controversy. Modifies the Environmental Review Commission's study requirements to require the study of the accuracy and tolerance of equipment used to measure the flow of water transferred from one river basin to another. Modifies proposed GS 143-215.22L to require the Environmental Review Commission (EMC) to accept written comment on the draft environmental documents for at least 30 days following the last public hearing. Modifies specific information to be included in a certificate petition. Provides that a mediation officer may be appointed upon the request of the applicant, any interested party, or the Department, or upon a motion by the EMC (was, a mediation officer must be appointed within 30 days after an applicant files a petition). Modifies conditions that must be considered in determining whether to issue a certificate. Allows the EMC to place a limit on how long the certificate is valid. Makes exceptions to the certificate requirements concerning water conservation and drought management plans for circumstances of technical or economic infeasibility or adverse environmental impact. Adds a certificate requirement that the certificate holder report the quantity of water transferred during each calendar quarter. Deletes the \$10,000 application fee. Modifies the policy statement to provide that it is the state's public policy that the

reasonably foreseeable future water needs of a public water system with its service area located primarily in the receiving river basin are subordinate to the reasonably foreseeable future water needs of a public water system with its service area located primarily in the source river basin. Requires a petition to extend or review a certificate to be treated as a new petition. Adds a severability clause. Makes technical, conforming, and clarifying changes.

September 4, 2007

SL 2007-518 (H 820). AMEND INTERBASIN TRANSFER LAWS. AN ACT TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATED TO THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN AND THE ALLOCATION OF SURFACE WATER RESOURCES AND TO AMEND THE LAWS GOVERNING THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER RIVER BASIN. Summarized in *Daily Bulletin* 7/26/07, 7/27/07, and 8/1/07. Enacted August 31, 2007. Effective January 1, 2011, for petitions for a certificate for transfer of surface water from one river basin to another to supplement ground water supplies in the 15 counties designated as the Central Coastal Plain Capacity Use Area. Before that effective date, these petitions are to be considered and acted upon by the Environmental Management Commission.