



ADOPTED

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 1743*

AMENDMENT NO. 2
(to be filled in by
Principal Clerk)

H1743-ASB-42 [v.4]

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Comm. Sub. [YES]
Amends Title [NO]
Fourth Edition

Date 7-1, 2010

Senator Hunt

1 moves to amend the bill on page 1, line 6 through page 2, line 20,
2 by rewriting those lines to read:

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"SECTION 1. G.S. 143-350 reads as rewritten:

"§ 143-350. Definitions.

As used in this Article:

...

(3)

"Essential water use" means the use of water necessary for firefighting, health, and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, State, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to ~~maintain support and sustain~~ the economy of the State, region, or area.

..."" and

on page 2, line 25 through page 4, line 6,

by rewriting those lines to read:

(1)

Definitions. – As used in this subsection:

- a. "Ecological flow" means the stream flow necessary to protect ecological integrity.
- b. "Ecological integrity" means the ability of an aquatic system to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to prevailing ecological conditions and, when subject to disruption, to recover and continue to provide the natural goods and services that normally accrue from the system.
- c. "Groundwater resource" means any water flowing or lying under the surface of the earth or contained within an aquifer.
- d. "Prevailing ecological conditions" means the ecological conditions determined by reference to the applicable period of record of the United States Geological Survey stream gauge data, including data reflecting the ecological conditions that exist after the construction



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- 1 and operation of existing flow modification devices, such as dams,
2 but excluding data collected when stream flow is temporarily
3 affected by in-stream construction activity.
4 e. "Surface water resource" means any lake, pond, river, stream, creek,
5 run, spring, or other water flowing or lying on the surface of the
6 earth.
7 (2) Schedule. – The Department shall develop a schedule for basinwide
8 hydrologic model development. In developing the schedule, the Department
9 shall give priority to developing hydrologic models for river basins or
10 portions of river basins that are experiencing or are likely to experience
11 water supply shortages, where the ecological integrity is threatened or likely
12 to become threatened, or for which an existing hydrologic model has not
13 been developed by the Department or other persons or entities.
14 (3) Model. – Each basinwide hydrologic model shall:
15 a. Include surface water resources within the river basin, groundwater
16 resources within the river basin to the extent known by the
17 Department, transfers into and out of the river basin that are required
18 to be registered under G.S. 143-215.22H, other withdrawals,
19 ecological flow, instream flow requirements, projections of future
20 withdrawals, an estimate of return flows within the river basin,
21 inflow data, local water supply plans, and other scientific and
22 technical information the Department deems relevant.
23 b. Be designed to simulate the flows of each surface water resource
24 within the basin that is identified as a source of water for a
25 withdrawal registered under G.S. 143-215.22H in response to
26 different variables, conditions, and scenarios. The model shall
27 specifically be designed to predict the places, times, frequencies, and
28 intervals at which any of the following may occur:
29 1. Yield may be inadequate to meet all needs.
30 2. Yield may be inadequate to meet all essential water uses.
31 3. Ecological flow may be adversely affected.
32 c. Be based solely on data that is of public record and open to public
33 review and comment.
34 (4) Ecological flow. – The Department shall characterize the ecology in the
35 different river basins and identify the flow necessary to maintain ecological
36 integrity. The Department shall create a Science Advisory Board to assist the
37 Department in characterizing the natural ecology and identifying the flow
38 requirements. The Science Advisory Board shall include representatives
39 from the Divisions of Water Resources and Water Quality of the
40 Department, the North Carolina Wildlife Resources Commission, the North
41 Carolina Marine Fisheries Commission, and the Natural Heritage Program.
42 The Department shall also invite participation by the United States Fish and
43 Wildlife Service; the National Marine Fisheries Service; representatives of

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1 organizations representing agriculture, forestry, manufacturing, electric
2 public utilities, and local governments, with expertise in aquatic ecology and
3 habitat; and other individuals or organizations with expertise in aquatic
4 ecology and habitat. The Department shall ask the Science Advisory Board
5 to review any report or study submitted to the Department for consideration
6 that is relevant to characterizing the ecology of the different river basins and
7 identifying flow requirements for maintenance of ecological integrity. The
8 Department shall consider such other information, including site specific
9 analyses, that either the Board or the Department considers relevant to
10 determining ecological flow requirements.

11 (5) Interstate cooperation. – To the extent practicable, the Department shall
12 work with neighboring states to develop basinwide hydrologic models for
13 each river basin shared by North Carolina and another state.

14 (6) Approval and modification of hydrologic models. –

15 a. Upon completion of a hydrologic model, the Department shall:

16 1. Submit the model to the Commission for approval.

17 2. Publish in the North Carolina Register notice of its
18 recommendation that the Commission approve the model and
19 of a 60-day period for providing comment on the model.

20 3. Provide electronic notice to persons who have requested
21 electronic notice of the notice published in the North Carolina
22 Register.

23 b. Upon receipt of a hydrologic model, the Commission shall:

24 1. Receive comment on the model for the 60-day period noticed
25 in the North Carolina Register.

26 2. Act on the model following the 60-day comment period.

27 c. The Department shall submit any significant modification to an
28 approved hydrologic model to the Commission for review and
29 approval under the process used for initial approval of the model.

30 d. A hydrologic model is not a rule and Article 2A of Chapter 150B of
31 the General Statutes does not apply to the development of a
32 hydrologic model.

33 (7) Existing hydrologic models. – The Department shall not develop a
34 hydrologic model for a river basin for which a hydrologic model has already
35 been developed by a person or entity other than the Department, if the
36 Department determines that the hydrologic model meets the requirements of
37 this subsection. The Department may adopt a hydrologic model that has been
38 developed by another person or entity that meets the requirements of this
39 subsection in lieu of developing a hydrologic model as required by this
40 subsection. The Department may make any modifications or additions to a
41 hydrologic model developed by another person or entity that are necessary to
42 meet the requirements of this subsection.

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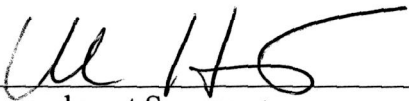
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- 1 (8) Construction of subsection. – Nothing in this subsection shall be construed
2 to vary any existing, or impose any additional regulatory requirements,
3 related to water quality or water resources.
4 (9) Report. – The Department shall report to the Environmental Review".

SIGNED _____


Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED

48-0

FAILED _____

TABLED _____

7-1-10

Janet Pruitt

ADOPTED