

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1765*
Committee Substitute Favorable 6/9/10
PROPOSED COMMITTEE SUBSTITUTE H1765-PCS30541-SB-94

Short Title: Amend WQ/IBT Laws.

(Public)

Sponsors:

Referred to:

May 18, 2010

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY
3 IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE
4 WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN
5 TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL
6 REQUIRED PUBLIC HEARINGS; AND TO CREATE A TEMPORARY,
7 STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR
8 INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE
9 AREA AND INTO ISOLATED RIVER BASINS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Chapter 77 of the General Statutes is amended by adding a new
12 Article to read:

13 "Article 8A.

14 "Falls Lake Watershed Association.

15 **"§ 77-119. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) "Board of directors" has the same meaning as in G.S. 55A-1-40.
18 (2) "Falls Lake watershed" means those natural areas of drainage including all
19 tributaries contributing to the supply of Falls Lake, the specific limits of
20 which are designated by the Environmental Management Commission
21 pursuant to G.S. 143-213.
22 (3) "Local government" means a county, city, town, or incorporated village that
23 is located in whole or in part within the Falls Lake watershed. Local
24 government also includes any water or sewer authority that is created
25 pursuant to Article 1 of Chapter 162A of the General Statutes that provides
26 service within the Falls Lake watershed.
27 (4) "Nonprofit corporation" has the same meaning as in G.S. 55A-1-40.

28 **"§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors;**
29 **purpose; meetings; and records.**

30 (a) Local governments may elect to incorporate the Falls Lake Watershed Association
31 nonprofit corporation or establish the Association using an existing nonprofit corporation. The
32 Association shall only be comprised of local governments that choose to participate in the
33 Association.



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1 (b) Each local government that elects to participate in the Association shall appoint a
2 representative and an alternate representative to serve on the board of directors of the
3 Association. The first board of directors that is appointed to the Association shall adopt bylaws
4 that govern the operation of the Association.

5 (c) The purposes of the Association may include, but are not limited to:

6 (1) Providing a forum for sharing information in order to assist local
7 governments in complying with State and federal laws that pertain to the
8 water quality in the Falls Lake watershed.

9 (2) Providing a mechanism for participating local governments to coordinate
10 and fund common technical resources.

11 (3) Planning for and conducting water quality monitoring in the Falls Lake
12 watershed in coordination with the Department of Environment and Natural
13 Resources.

14 (4) Coordinating with the Department of Environment and Natural Resources in
15 the development of a transparent and accessible system for recording and
16 maintaining nutrient offsets and credits that complies with any rules adopted
17 to protect and restore water quality in the Falls Lake watershed.

18 (5) Providing a public forum to review and discuss innovative approaches to
19 restore, protect, and maintain water quality in the Falls Lake watershed.

20 (6) Conducting and evaluating scientific research that describes or predicts
21 conditions related to or affecting water quality in the Falls Lake watershed,
22 including the reservoir.

23 (d) The Association shall be subject to the requirements for meetings of public bodies
24 pursuant to Article 33C of Chapter 143 of the General Statutes.

25 (e) The Association shall be subject to the requirements for public records pursuant to
26 Chapter 132 of the General Statutes.

27 **"§ 77-121. Memoranda of understanding.**

28 To the extent allowed by law, the Department of Environment and Natural Resources may
29 enter into memoranda of understanding with the Association to implement the purposes in
30 G.S. 77-120(c).

31 **"§ 77-122. Authority.**

32 The authority granted pursuant to this Article is in addition to and not in derogation of any
33 other authority granted to local governments under any other provision of law."

34 **SECTION 2.** G.S. 143-215.22L(e) reads as rewritten:

35 "(e) Public Hearing on the Draft Environmental Document. – The Commission shall
36 hold a public hearing on the draft environmental document for a proposed interbasin transfer
37 after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as
38 provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate
39 where a copy of the environmental document can be reviewed and the procedure to be followed
40 by anyone wishing to submit written comments and questions on the environmental document.
41 The Commission shall prepare a record of all comments and written responses to questions
42 posed in writing. The record shall include complete copies of scientific or technical comments
43 related to the potential impact of the interbasin transfer. The Commission shall accept written
44 comment on the draft environmental ~~documents~~ document for a minimum of 30 days following
45 the last public hearing. The applicant who petitions the Commission for a certificate under this
46 section shall pay the costs associated with the notice and public hearing on the draft
47 environmental document."

48 **SECTION 3.** G.S. 143-215.22L(j) reads as rewritten:

49 "(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the
50 draft determination as provided in subsection (i) of this section, the Commission shall hold
51 public hearings on the draft determination. At least one hearing shall be held in the affected

1 area of the source river basin, and at least one hearing shall be held in the affected area of the
 2 receiving river basin. In determining whether more than one public hearing should be held
 3 within either the source or receiving river basins, the Commission shall consider the differing
 4 or conflicting interests that may exist within the river basins, including the interests of both
 5 upstream and downstream parties potentially affected by the proposed transfer. The public
 6 hearings shall be conducted by one or more hearing officers appointed by the Chair of the
 7 Commission. The hearing officers may be members of the Commission or employees of the
 8 Department. The Commission shall give at least 30 days' written notice of the public hearing as
 9 provided in subsection (c) of this section. The Commission shall accept written comment on the
 10 draft determination for a minimum of 30 days following the last public hearing. The
 11 Commission shall prepare a record of all comments and written responses to questions posed in
 12 writing. The record shall include complete copies of scientific or technical comments related to
 13 the potential impact of the interbasin transfer. The applicant who petitions the Commission for
 14 a certificate under this section shall pay the costs associated with the notice and public hearing
 15 on the draft determination."

16 **SECTION 4.** Section 7 of S.L. 2007-518 reads as rewritten:

17 "**SECTION 7.(a)** Except as provided in ~~subsection (b)~~ subsections (b) and (c) of this
 18 section, this act becomes effective when it becomes law and applies to any petition for a
 19 certificate for a transfer of surface water from one river basin to another river basin first made
 20 on or after that date.

21 "**SECTION 7.(b)** For a petition for a certificate for transfer of surface water from one river
 22 basin to another river basin to supplement ground water supplies in the fifteen counties
 23 designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501, this act
 24 becomes effective 1 January ~~2011~~,2013. Prior to 1 January ~~2011~~,2013, a petition for a
 25 certificate for transfer of surface water from one river basin to another river basin to
 26 supplement ground water supplies in the fifteen counties designated as the Central Coastal
 27 Plain Capacity Use Area shall be considered and acted upon by the Environmental
 28 Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I
 29 on 1 July 2007.

30 "**SECTION 7.(c)** For purposes of this subsection, "isolated river basin" means each of the
 31 following river basins set out in G.S. 143-215.22G(1):

32	<u>g.</u>	<u>2-6</u>	<u>New River.</u>
33	<u>v.</u>	<u>9-4</u>	<u>Shallotte River.</u>
34	<u>aa.</u>	<u>12-1</u>	<u>Albemarle Sound.</u>
35	<u>hh.</u>	<u>17-1</u>	<u>White Oak River.</u>

36 For a petition for a certificate for transfer of surface water from a river basin to an isolated river
 37 basin for the purpose of supplementing ground water supplies, this act becomes effective 1 July
 38 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river
 39 basin to an isolated river basin for the purpose of supplementing ground water supplies shall be
 40 considered and acted upon by the Environmental Management Commission pursuant to the
 41 procedures and standards set out in G.S. 143-215.22I on 1 July 2007."

42 **SECTION 5.** This act is effective when it becomes law. Sections 2 and 3 apply to
 43 the costs, including costs of notice, associated with public hearings held on or after that date.