

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1765*
Committee Substitute Favorable 6/9/10
Committee Substitute #2 Favorable 6/30/10
PROPOSED SENATE COMMITTEE SUBSTITUTE H1765-PCS30547-SB-101

Short Title: Amend WQ/IBT Laws.

(Public)

Sponsors:

Referred to:

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS; TO CREATE A TEMPORARY, STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE AREA AND INTO ISOLATED RIVER BASINS; TO LIMIT TRANSFERS OF WATER FROM THE CATAWBA RIVER BASIN UNDER THE CONCORD AND KANNAPOLIS INTERBASIN TRANSFER CERTIFICATE; AND TO PROVIDE THAT BENEFICIAL REUSE OF WASTEWATER INCLUDES CERTAIN FACILITIES THAT REQUIRE RELOCATION OF A DISCHARGE FROM ONE RECEIVING STREAM TO ANOTHER.

The General Assembly of North Carolina enacts:

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

"Article 8A.

"Falls Lake Watershed Association.

"§ 77-119. Definitions.

The following definitions apply in this Article:

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



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1 "§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors;
2 purpose; meetings; and records.

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

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

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

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

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

17 (3) Planning for and conducting water quality monitoring in the Falls Lake
18 watershed in coordination with the Department of Environment and Natural
19 Resources.

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

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

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

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

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

33 "§ 77-121. Memoranda of understanding.

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

37 "§ 77-122. Authority.

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

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

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

1 section shall pay the costs associated with the notice and public hearing on the draft
2 environmental document."

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

4 "(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the
5 draft determination as provided in subsection (i) of this section, the Commission shall hold
6 public hearings on the draft determination. At least one hearing shall be held in the affected
7 area of the source river basin, and at least one hearing shall be held in the affected area of the
8 receiving river basin. In determining whether more than one public hearing should be held
9 within either the source or receiving river basins, the Commission shall consider the differing
10 or conflicting interests that may exist within the river basins, including the interests of both
11 upstream and downstream parties potentially affected by the proposed transfer. The public
12 hearings shall be conducted by one or more hearing officers appointed by the Chair of the
13 Commission. The hearing officers may be members of the Commission or employees of the
14 Department. The Commission shall give at least 30 days' written notice of the public hearing as
15 provided in subsection (c) of this section. The Commission shall accept written comment on the
16 draft determination for a minimum of 30 days following the last public hearing. The
17 Commission shall prepare a record of all comments and written responses to questions posed in
18 writing. The record shall include complete copies of scientific or technical comments related to
19 the potential impact of the interbasin transfer. The applicant who petitions the Commission for
20 a certificate under this section shall pay the costs associated with the notice and public hearing
21 on the draft determination."

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

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

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

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

38	g.	<u>2-6</u>	<u>New River.</u>
39	v.	<u>9-4</u>	<u>Shalotte River.</u>
40	aa.	<u>12-1</u>	<u>Albemarle Sound.</u>
41	hh.	<u>17-1</u>	<u>White Oak River.</u>

42 For a petition for a certificate for transfer of surface water from a river basin to an isolated river
43 basin for the purpose of supplementing ground water supplies, this act becomes effective 1 July
44 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river
45 basin to an isolated river basin for the purpose of supplementing ground water supplies shall be
46 considered and acted upon by the Environmental Management Commission pursuant to the
47 procedures and standards set out in G.S. 143-215.22I on 1 July 2007."

48 **SECTION 5.** Concord and Kannapolis may not transfer water from the Catawba
49 River Basin pursuant to the Certificate Authorizing the Cities of Concord and Kannapolis to
50 Transfer Water from the Catawba River and Yadkin River Basins to the Rocky River Basin
51 under the Provisions of G.S. 143-215.22I, approved by the Environmental Management

1 Commission on January 10, 2007, and signed into effect on January 25, 2007, unless the
2 Department of Environment and Natural Resources determines that both of the following
3 conditions are met:

- 4 (1) Concord and Kannapolis are transferring 10 million gallons per day from the
5 Yadkin River Basin to the Rocky River Basin pursuant to the Interbasin
6 Transfer Certificate.
- 7 (2) There are no other water supplies located within the Yadkin River Basin that
8 are available to Concord and Kannapolis.

9 **SECTION 6.** G.S. 143-355.5(a) reads as rewritten:

10 "(a) Water Reuse Policy. – It is the public policy of the State that the reuse of treated
11 wastewater or reclaimed water is critical to meeting the existing and future water supply needs
12 of the State. The General Assembly finds that reclaimed water systems permitted and operated
13 under G.S. 143-215.1(d2) in an approved wastewater reuse program can provide water for
14 many beneficial purposes in a way that is both environmentally acceptable and protective of
15 public health. This finding includes and applies to conjunctive facilities that require the
16 relocation of a discharge from one receiving stream to another under all of the following
17 conditions:

- 18 (1) The relocation is necessary to create an approved comprehensive wastewater
19 reuse program.
- 20 (2) The reuse program provides significant reuse benefits.
- 21 (3) The relocated discharge will comply with all applicable water quality
22 standards; will not result in degradation of water quality in the receiving
23 waters; will not contribute to water quality impairment in the receiving
24 watershed; and will result in net benefits to water quality, such as the
25 elimination of a wastewater discharge in a nutrient sensitive river basin."

26 **SECTION 7.** This act is effective when it becomes law. Sections 2 and 3 apply to
27 the costs, including costs of notice, associated with public hearings held on or after that date.