

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 1765\*  
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Committee Substitute #2 Favorable 6/30/10  
Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted  
7/6/10  
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Proposed Conference Committee Substitute H1765-PCCS30555-SB-2

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 AUTHORIZE THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY CERTAIN CONDITIONS ON INTERBASIN TRANSFERS; 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



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1 pursuant to Article 1 of Chapter 162A of the General Statutes that provides  
2 service within the Falls Lake watershed.

3 (4) "Nonprofit corporation" has the same meaning as in G.S. 55A-1-40.

4 **"§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors;**  
5 **purpose; meetings; and records.**

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

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

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

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

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

20 (3) Planning for and conducting water quality monitoring in the Falls Lake  
21 watershed in coordination with the Department of Environment and Natural  
22 Resources.

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

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

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

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

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

36 **"§ 77-121. Memoranda of understanding.**

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

40 **"§ 77-122. Authority.**

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

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

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

1 related to the potential impact of the interbasin transfer. The Commission shall accept written  
 2 comment on the draft environmental ~~documents~~ document for a minimum of 30 days following  
 3 the last public hearing. The applicant who petitions the Commission for a certificate under this  
 4 section shall pay the costs associated with the notice and public hearing on the draft  
 5 environmental document."

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

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

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

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

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

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

41	g.	2-6	<u>New River.</u>
42	v.	9-4	<u>Shallotte River.</u>
43	aa.	12-1	<u>Albemarle Sound.</u>
44	hh.	17-1	<u>White Oak River.</u>

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

50 "**SECTION 7.(d)** Notwithstanding subsection (c) of this section, an applicant for a  
 51 certificate for transfer of surface water from a river basin to an isolated river basin may request

1 that the applicant be subject to the certification process that would apply if the transfer was not  
2 into an isolated river basin."

3 **SECTION 5.** The Environmental Review Commission may study the transfer of  
4 surface water from one river basin to another. If the Commission undertakes this study, the  
5 Commission shall specifically consider whether certificates for interbasin transfers should  
6 contain conditions that require a receiving river basin to first withdraw and transfer surface  
7 water from within its major river basin before it may withdraw and transfer surface water from  
8 another river basin. The Commission shall report the results and recommendations of this  
9 study, if any, to the 2011 General Assembly.

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

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

19 (1) The relocation is necessary to create an approved comprehensive wastewater  
20 reuse program.

21 (2) The reuse program provides significant reuse benefits.

22 (3) The relocated discharge will comply with all applicable water quality  
23 standards; will not result in degradation of water quality in the receiving  
24 waters; will not contribute to water quality impairment in the receiving  
25 watershed; and will result in net benefits to water quality, such as the  
26 elimination of a wastewater discharge in a nutrient sensitive river basin."

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