

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H

D

HOUSE BILL 609
PROPOSED COMMITTEE SUBSTITUTE H609-PCS90110-SB-32

Short Title: Promote Water Supply Development.

(Public)

Sponsors:

Referred to:

April 5, 2011

A BILL TO BE ENTITLED

AN ACT TO PROMOTE THE DEVELOPMENT OF WATER SUPPLY RESERVOIRS AND
OTHER WATER SUPPLY RESOURCES.

Whereas, S.L. 2007-518 directed the Environmental Review Commission to study the allocation of surface water resources and their availability and maintenance in the State; and

Whereas, pursuant to this directive, the Environmental Review Commission commissioned a study and report on water allocation issues and policy options; and

Whereas, the resulting water allocation report included a recommendation that the State create an expedited regulatory process for the construction of new water supply reservoirs; and

Whereas, the resulting water allocation report found that certain areas of the State, including the piedmont, are expected to experience significant population growth over the next 30 years and do not have adequate water supplies to support the expected growth; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-355(b) is amended by adding two new subdivisions to read:

"(b) Functions to Be Performed. – The Department shall:

...

(16) Cooperate with units of local government in the identification of water supply needs and appropriate water supply sources and water storage projects to meet those needs. By agreement with a unit of local government, the Department may do any of the following:

a. Assist in the assessment of alternatives for meeting water supply needs; the conduct of engineering studies, hydraulic computations, and hydrographic surveys; and the development of a plan of study for purposes of obtaining necessary permits.

b. For budget and planning purposes, develop estimates of the costs of the proposed new water supply project.

c. Apply for State and federal permits for the development of regional water supplies.

(17) Be the principal State agency to cooperate with other State agencies, the United States Army Corps of Engineers, and all other federal agencies or



* H 6 0 9 - P C S 9 0 1 1 0 - S B - 3 2 *

1 instrumentalities in the planning and development of water supply sources
2 and water storage projects for the State."

3 **SECTION 2.** Article 38 of Chapter 143 of the General Statutes is amended by
4 adding two new sections to read:

5 **"§ 143-355.7. Water supply development; State-local cooperation.**

6 (a) At the request of one or more units of local government, the Department may assist
7 the local government in identifying the preferred water supply alternative that alone or in
8 combination with other water sources will provide for the long-term water supply needs
9 documented in the local water supply plan and meet all of the following criteria:

10 (1) Are economically and practically feasible.

11 (2) Make maximum, practical beneficial use of reclaimed wastewater and
12 stormwater.

13 (3) Comply with water quality classifications and standards.

14 (4) Avoid or mitigate impacts to threatened or endangered species to the extent
15 such species are protected by State or federal law.

16 (5) Maintain downstream flows necessary to protect downstream users.

17 (6) Do not have significant adverse impacts on other water withdrawals or
18 wastewater discharges.

19 (7) Avoid or mitigate water quality impacts consistent with the requirements of
20 rules adopted by the Environmental Management Commission to implement
21 33 U.S.C. § 1341.

22 (b) During the alternatives analysis, the Department shall request relevant information
23 regarding the potential alternatives, including the establishment or expansion of the water
24 supply reservoir or other water supply resources, from other State agencies with jurisdiction
25 over any natural resources that will be impacted under the alternatives identified by the
26 Department. Unless the local government agrees to an extension of time, the Department shall
27 determine the preferred alternative within two years of the execution of a contract with the
28 requesting local government for the costs of the analysis. The determination of the preferred
29 alternative shall be binding on all State agencies unless the Department determines from its
30 further evaluation during its review of any State or federal permit applications for the project
31 that another preferred alternative should be selected in light of additional information brought
32 forward during the permit reviews.

33 (c) If the Department provides an analysis of practicable alternatives for meeting a
34 water supply need under this section, the analysis shall be accepted by the Department and the
35 Department of Administration for purposes of satisfying the requirements of the North Carolina
36 Environmental Policy Act and any State permit or authorization that requires identification and
37 assessment of alternatives, including, but not limited to, a request for an interbasin transfer
38 pursuant to G.S. 143-215.22L.

39 (d) The Department may provide technical assistance to a unit of local government in
40 obtaining federal permits for the preferred water supply alternative identified pursuant to
41 subsection (a) of this section. For purposes of providing technical assistance and conducting
42 studies in support of a proposed water supply project under this section, the Department may
43 enter into an agreement with one or more units of local government to conduct studies or
44 modeling. The agreement shall specify the allocation of costs for any studies or modeling
45 prepared by the Department in support of the project.

46 (e) When the Department has identified the most practicable alternative, a regional
47 water supply system may request that the Department become a co-applicant for all required
48 federal approvals for the alternative identified by the Department. The Department may
49 become a co-applicant when all of the following conditions are met:

- 1 (1) The regional water supply system has acquired or will acquire the property
2 necessary for construction of the water supply reservoir or other water
3 supply resource.
- 4 (2) The local water supply plan shows that the regional water supply system has
5 implemented appropriate conservation measures similar in effect to the
6 measures in comparably sized North Carolina regional water supply systems.
- 7 (3) The regional water supply system has developed and is implementing
8 measures to replace existing leaking infrastructure that is similar in effect to
9 the measures being implemented by comparably sized North Carolina
10 regional water systems.
- 11 (4) The regional water supply system has entered into a contractual agreement
12 to pay the expenses incurred by the Department as a co-applicant for the
13 project approval.
- 14 (f) Nothing in this section shall be construed to limit the authority of the Department to
15 require environmental permits or to apply and enforce environmental standards pursuant to
16 State law.

17 **"§ 143-355.8. Regional water supply planning organizations.**

- 18 (a) One or more water systems may establish a water supply planning organization to
19 plan for and coordinate water resource supply and demand on a regional basis. A water supply
20 planning organization may include representatives of local government water systems, water
21 authorities, nongovernmental water systems, and registered water withdrawers.
- 22 (b) A regional water supply planning organization may do any of the following:
- 23 (1) Identify sources of raw water supply for regional systems.
- 24 (2) Identify areas suitable for the development of new regional water sources.
- 25 (3) Identify opportunities for purchase and sale of water between water systems
26 to meet regional water supply needs.
- 27 (4) Prepare joint water supply plans.
- 28 (5) Enter into agreements with the Department for technical assistance in
29 identifying practical alternatives to meet regional water supply needs
30 pursuant to G.S. 143-355.7 or to provide studies in support of a proposed
31 regional water supply project.
- 32 (6) Support cooperative arrangements between water systems for purchase and
33 sale of water by providing technical assistance and voluntary mediation of
34 disputes concerning water supply.
- 35 (c) Nothing in this section shall be construed to alter the requirements for obtaining a
36 certificate for an interbasin transfer."

37 **SECTION 3.** This act is effective when it becomes law.