

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 231
PROPOSED COMMITTEE SUBSTITUTE S231-PCS75168-RI-29

Short Title: Interconnection of Public Water Systems.

(Public)

Sponsors:

Referred to:

March 8, 2011

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING THE INTERCONNECTION OF PUBLIC WATER SYSTEMS OR
3 WASTEWATER SYSTEMS TO REGIONAL SYSTEMS LOCATED IN THE SAME
4 SUBBASIN WHEN NECESSARY TO PROMOTE PUBLIC HEALTH, PROTECT THE
5 ENVIRONMENT, AND ENSURE COMPLIANCE WITH APPLICABLE RULES AND
6 TO REQUIRE THAT AN ANALYSIS OF REASONABLE ALTERNATIVES BE DONE
7 BEFORE CONSTRUCTING OR ALTERING A PUBLIC WATER SYSTEM OR
8 WASTEWATER SYSTEM.

9 The General Assembly of North Carolina enacts:

10 SECTION 1. G.S. 130A-317(c) reads as rewritten:

11 "(c) No person or unit of local government shall begin construction or alteration of a
12 public water system or award a contract for construction or alteration unless all of the following
13 conditions are met:

- 14 (1) The plans for construction or alteration have been prepared by an engineer
15 licensed by this State.
- 16 (2) The Department has determined that the system, as constructed or altered,
17 will be capable of compliance with the drinking water rules.
- 18 (3) The Department has determined that the system is capable of interconnection
19 at an appropriate time with an expanding municipal, ~~county~~-county, or
20 regional ~~system~~. system; the Department may require interconnection with a
21 municipal, county, or regional system within a county, or between or among
22 counties if approved by the board of commissioners of each county, if
23 necessary to promote the public health, protect the environment, or ensure
24 compliance with drinking water rules and the systems are all located within
25 the same subbasin as set out in G.S. 143-215.22G.
- 26 (3a) The Department has determined that an analysis has been performed,
27 including a financial analysis, of the reasonable alternatives to the proposed
28 construction or alteration of the public water system, and that the analysis
29 indicates that the proposed construction or alteration is appropriate.
- 30 (4) The Department has determined that adequate arrangements have been made
31 for the continued operation, service and maintenance of the public water
32 system.
- 33 (5) The Department has approved the plans and specifications."



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1 **SECTION 2.** G.S. 130A-317(d) reads as rewritten:

2 "(d) Municipalities, counties, local boards or commissions, water and sewer authorities,
3 or groups of municipalities and counties may establish and administer within their utility
4 service areas their own approval program in lieu of State approval of water system plans
5 required in subsection (c) of this section for construction or alteration of the distribution system
6 of a proposed or existing public water system, subject to the prior certification of the
7 Department. For purposes of this subsection, the service area of a municipality shall include
8 only that area within the corporate limits of the municipality and that area outside a
9 municipality in its extraterritorial jurisdiction where water service is already being provided to
10 the permit applicant by the municipality or connection to the municipal water system is
11 immediately available to the applicant; the service areas of counties and the other entities or
12 groups shall include only those areas where water service is already being provided to the
13 applicant by the permitting authority or connection to the permitting authority's system is
14 immediately available. No later than the 180th day after the receipt of an approval program and
15 statement submitted by any local government, commission, authority, or board, the Department
16 shall certify any local program that meets all of the following conditions:

17 ...

18 (6) Provides that the system is capable of interconnection at an appropriate time
19 with an expanding municipal, county, or regional ~~system~~ system; and
20 requires interconnection of the system with a municipal, county, or regional
21 system when the Department determines interconnection is necessary to
22 promote the public health, protect the environment, or ensure compliance
23 with drinking water rules and the systems are all located within the same
24 subbasin as set out in G.S. 143-215.22G.

25 (6a) Provides that in order for a proposed project to construct or alter a public
26 water system to be approved, an analysis, including a financial analysis, of
27 the reasonable alternatives to the proposed construction or alteration has
28 been performed and that the analysis indicates that the proposed construction
29 or alteration is appropriate.

30 "

31 **SECTION 3.** G.S. 143-215.1(b)(4) reads as rewritten:

32 "(4) The Commission shall have the power:

- 33 a. To grant a permit with such conditions attached as the Commission
34 believes necessary to achieve the purposes of this Article.
- 35 b. To require that an applicant satisfy the Department that the applicant,
36 or any parent, subsidiary, or other affiliate of the applicant or parent:
- 37 1. Is financially qualified to carry out the activity for which the
38 permit is required under subsection (a) of this section; and
 - 39 2. Has substantially complied with the effluent standards and
40 limitations and waste management treatment practices
41 applicable to any activity in which the applicant has
42 previously engaged, and has been in substantial compliance
43 with other federal and state laws, regulations, and rules for
44 the protection of the environment.
 - 45 3. As used in this subdivision, the words "affiliate," "parent,"
46 and "subsidiary" have the same meaning as in 17 Code of
47 Federal Regulations § 240.12b-2 (April 1, 1990, Edition).
 - 48 4. For a privately owned treatment works that serves 15 or more
49 service connections or that regularly serves 25 or more
50 individuals, financial qualification may be demonstrated
51 through the use of a letter of credit, insurance, surety, trust

1 agreement, financial test, bond, or a guarantee by corporate
2 parents or third parties who can pass the financial test. No
3 permit shall be issued under this section for a privately owned
4 treatment works that serves 15 or more service connections or
5 that regularly serves 25 or more individuals, until financial
6 qualification is established and the issuance of the permit
7 shall be contingent on the continuance of the financial
8 qualification for the duration of the activity for which the
9 permit was issued.

- 10 c. To modify or revoke any permit upon not less than 60 days' written
11 notice to any person affected.
- 12 d. To designate certain classes of minor activities for which a general
13 permit may be issued, after considering:
- 14 1. The environmental impact of the activities;
 - 15 2. How often the activities are carried out;
 - 16 3. The need for individual permit oversight; and
 - 17 4. The need for public review and comment on individual
18 permits.
- 19 e. To designate certain classes of minor activities for which:
- 20 1. Performance conditions may be established by rule; and
 - 21 2. Individual or general permits are not required.
- 22 f. To require connection to a municipal, county, or regional wastewater
23 system if necessary to promote public health, protect the
24 environment, or ensure compliance with water quality rules and the
25 systems are all located within the same subbasin as set out in
26 G.S. 143-215.22G."

27 **SECTION 4.** G.S. 143-215.1(f) reads as rewritten:

28 "(f) Local Permit Programs for Sewer Extension and Reclaimed Water Utilization. –
29 Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of
30 municipalities and counties may establish and administer within their utility service areas their
31 own general permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and
32 (8) above, for construction, operation, alteration, extension, change of proposed or existing
33 sewer system, subject to the prior certification of the Commission. For purposes of this
34 subsection, the service area of a municipality shall include only that area within the corporate
35 limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction
36 where sewer service or a reclaimed water utilization system is already being provided by the
37 municipality to the permit applicant or connection to the municipal sewer system or a reclaimed
38 water utilization system is immediately available to the applicant; the service areas of counties
39 and the other entities or groups shall include only those areas where sewer service or a
40 reclaimed water utilization system is already being provided to the applicant by the permitting
41 authority or connection to the permitting authority's system is immediately available. No later
42 than the 180th day after the receipt of a program and statement submitted by any local
43 government, commission, authority, or board the Commission shall certify any local program
44 that does all of the following:

- 45 (1) Provides by ordinance or local law for requirements compatible with those
46 imposed by this Part and the rules implementing this Part.
- 47 (2) Provides that the Department receives notice and a copy of each application
48 for a permit and that it receives copies of approved permits and plans upon
49 request by the Commission.

- 1 (3) Provides that plans and specifications for all construction, extensions,
2 alterations, and changes be prepared by or under the direct supervision of an
3 engineer licensed to practice in this State.
- 4 (4) Provides for the adequate enforcement of the program requirements by
5 appropriate administrative and judicial process.
- 6 (5) Provides for the adequate administrative organization, engineering staff,
7 financial and other resources necessary to effectively carry out its plan
8 review program.
- 9 (6) Provides that the system is capable of interconnection at an appropriate time
10 with an expanding municipal, county, or regional ~~system~~, system; and
11 requires interconnection of the system with a municipal, county, or regional
12 system when the Commission determines interconnection is necessary to
13 promote the public health, protect the environment, or ensure compliance
14 with water quality rules and the systems are all located within the same
15 subbasin as set out in G.S. 143-215.22G.
- 16 (6a) Provides that in order for a proposed project to construct or alter a public
17 sewer system to be approved, an analysis, including a financial analysis, of
18 the reasonable alternatives to the proposed construction or alteration has
19 been performed and that the analysis indicates that the proposed construction
20 or alteration is appropriate.
- 21 (7) Provides for the adequate arrangement for the continued operation, service,
22 and maintenance of the sewer or a reclaimed water utilization system.
- 23 (8) Is approved by the Commission as adequate to meet the requirements of this
24 Part and the rules implementing this Part."

25 **SECTION 5.** G.S. 143-215.1(b) is amended by adding two new subdivisions to

26 read:

- 27 "(6) No permit for a new or expanded municipal waste treatment system or
28 nonmunicipal waste treatment system (human waste only) shall be issued,
29 unless the applicant satisfies all of the following criteria:
- 30 a. Has adopted a plan to implement a program to reduce demand and
31 manage existing capacity by reducing or eliminating stormwater and
32 groundwater infiltration and intrusion into collection lines.
- 33 b. Has performed and submits an analysis, including a financial
34 analysis, of reasonable alternatives to the proposed new or expanded
35 waste treatment system, including the consideration of discharging to
36 created wetlands and the beneficial reuse of treated wastewater for
37 nondrinking water purposes, and that the analysis indicates that the
38 proposed new or expanded system is appropriate.
- 39 c. Can demonstrate that the proposed new or expanded waste treatment
40 facility will be planned, designed, and constructed to facilitate or
41 accommodate eventual interconnection with adjoining systems or
42 regional waste treatment systems located within the same subbasin as
43 set out in G.S. 143-215.22G.
- 44 (7) In deciding whether to grant a permit application under subdivision (6) of
45 this subsection, the Commission may consider whether the applicant is
46 making adequate progress in the implementation of sub-subdivision a. of
47 subdivision (6) of this subsection and may consider whether the applicant
48 could feasibly choose an alternative under sub-subdivision b. of subdivision
49 (6) of this subsection that will provide better protection for water quality."

50 **SECTION 6.** The Commission for Public Health shall adopt rules to implement
51 G.S. 130A-317, as amended by Sections 1 and 2 of this act, by October 1, 2011. The

- 1 Environmental Management Commission shall adopt rules to implement G.S. 143-215.1, as
2 amended by Sections 3, 4, and 5 of this act, by October 1, 2011.
3 **SECTION 7.** This act is effective when it becomes law.