

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10622-NPa-23

Short Title: Cape Fear IBT Moratorium/EMC IBT Reductions. (Public)

Sponsors: Representative Davis.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPOSE A LIMITED MORATORIUM ON INITIATING CERTAIN SURFACE WATER TRANSFERS FROM THE CAPE FEAR RIVER BASIN, TO DIRECT THE NORTH CAROLINA COLLABORATORY TO STUDY THE CAPE FEAR RIVER BASIN, AND TO MAKE CERTAIN REVISIONS TO THE ENVIRONMENTAL MANAGEMENT COMMISSION'S AUTHORITY TO REQUIRE REDUCTIONS TO EXISTING SURFACE WATER TRANSFERS FROM ANY RIVER BASIN IN THE STATE.

The General Assembly of North Carolina enacts:

PART I. CAPE FEAR WATER RESOURCES

LEGISLATIVE PURPOSE AND FINDINGS

SECTION 1.(a) Title. – This Part shall be known as the Cape Fear Water Resources Modernization and Regionalization Act of 2026.

SECTION 1.(b) Legislative Findings. – The General Assembly finds that the State's laws regulating surface water transfers, originally enacted more than 30 years ago, should be comprehensively reviewed and evaluated for updates in light of the State's and, in particular, the Cape Fear River Basin's tremendous economic and population growth and the impacts of drought and natural disasters on riverine and water reservoir systems over that period. The General Assembly finds that the approval of new or modified transfers that substantially diminish the overall hydrologic flow, current and future water storage capacity, and water quality of the Cape Fear River Basin should be temporarily paused while this review and evaluation is ongoing.

SECTION 1.(c) Legislative Purpose. – The purpose of this Part is to ensure the sustainable use and protection of the Cape Fear River Basin's water resources by temporarily pausing new surface water transfers from the upper reaches of the Cape Fear River Basin while a comprehensive review is conducted.

MORATORIUM ON NEW OR INCREASED INTERBASIN TRANSFERS FROM THE UPPER REACHES OF THE CAPE FEAR RIVER BASIN

SECTION 2.(a) Definitions. – The definitions set forth in G.S. 143-215.22G apply to this section.

SECTION 2.(b) Moratorium on New or Increased Interbasin Transfers. – There is hereby established a moratorium on the initiation of new surface water transfers or increases in existing surface water transfers from any source in the Cape Fear River Basin located upstream of Cape Fear Lock and Dam #2 in Bladen County. The Environmental Management Commission



1 shall not issue a certificate authorizing a new surface water transfer or an increase in an existing
2 surface water transfer from any source in the Cape Fear River Basin located upstream of Cape
3 Fear Lock and Dam #2.

4 **SECTION 2.(c) Exceptions.** – The moratorium established by subsection (b) of this
5 section shall not prohibit the following surface water transfers from the Cape Fear River Basin:

- 6 (1) Any existing transfers authorized by the Environmental Management
7 Commission or else lawfully initiated prior to the effective date of this act. No
8 person who maintains an existing transfer under this subdivision shall increase
9 the amount of surface water transferred to another river basin.
- 10 (2) Any emergency transfer of surface water authorized by the Secretary of
11 Environmental Quality under G.S. 143-215.22L(q) or G.S. 143-355.3.

12 **SECTION 2.(d) Moratorium Duration.** – This section is effective when it becomes
13 law and expires June 1, 2030.
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15 CAPE FEAR RIVER BASIN STUDY

16 **SECTION 3.(a) Study.** – The North Carolina Collaboratory at the University of
17 North Carolina at Chapel Hill (Collaboratory) shall study the Cape Fear River Basin to determine
18 its reliable yield of water supply and make recommendations for any legislative changes
19 necessary to ensure the sustainability of existing and future in-basin water uses. The
20 Collaboratory shall include all of the following in its study:

- 21 (1) A catalog of the existing water uses and users of the Cape Fear River Basin.
- 22 (2) An assessment of the reliable yield of water supply of the Cape Fear River
23 Basin, including an assessment for each of its subbasins and major tributaries.
24 This assessment shall include a scientific evaluation of the quantity of water
25 that can be dependably withdrawn or transferred under current and projected
26 future hydrologic conditions without causing unacceptable environmental or
27 economic impacts to in-basin uses.
- 28 (3) An analysis of the adequacy of the environmental impact study requirements
29 for interbasin transfers from sources in the Cape Fear River Basin located
30 upstream of Cape Fear Lock and Dam #2.
- 31 (4) An assessment of the economic equity of interbasin transfers for affected
32 communities within the Cape Fear River Basin.
- 33 (5) An examination of any anticipated water quality and ecological impacts from
34 approved and proposed interbasin transfers from the Cape Fear River Basin.

35 **SECTION 3.(b) Consultation.** – In collecting and analyzing data relevant to
36 determining reliable yield of water supply from the Cape Fear River Basin, the Collaboratory
37 shall consult with the United States Army Corps of Engineers, the Department of Environmental
38 Quality, the Environmental Management Commission, the State Water Infrastructure Authority,
39 the North Carolina League of Municipalities, and other relevant public and private entities
40 responsible for impoundments and water supply infrastructure in the Cape Fear River Basin.

41 **SECTION 3.(c) Report.** – The Collaboratory shall report its findings, together with
42 any proposed legislation, to the General Assembly no later than July 1, 2029.

43 **SECTION 3.(d) Appropriation.** – There is appropriated from the General Fund to
44 the Board of Governors of The University of North Carolina the sum of one million five hundred
45 thousand dollars (\$1,500,000) in nonrecurring funds for the 2026-2027 fiscal year to be allocated
46 to the North Carolina Collaboratory to fund the study of the Cape Fear River Basin described in
47 subsection (a) of this section. These funds shall not revert to the General Fund at the end of the
48 2026-2027 fiscal year but shall remain available until the end of the 2028-2029 fiscal year.

49 **SECTION 3.(e) Effective Date.** – This section becomes effective July 1, 2026.
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1 **PART II. EMC AUTHORITY TO REQUIRE REDUCTIONS TO EXISTING**
2 **INTERBASIN TRANSFERS**

3 **SECTION 4.** G.S. 143-215.13(d) reads as rewritten:

4 "(d) The Commission may conduct a public hearing pursuant to the provisions of this
5 subsection in any area of the State, whether or not a capacity use area has been declared, when it
6 has reason to believe that the withdrawal of water from or the discharge of water pollutants to
7 the waters in such area is having an unreasonably adverse effect upon such waters. If the
8 Commission determines that withdrawals of water from or discharge of water pollutants to the
9 waters within such area has resulted or probably will result in a generalized condition of water
10 depletion or water pollution within the area to the extent that the availability or fitness for use of
11 such water has been impaired for existing or proposed uses and that injury to the public health,
12 safety or welfare will result if increased or additional withdrawals or discharges occur, the
13 Commission may issue a rule:

- 14 (1) Prohibiting any person withdrawing waters in excess of 100,000 gallons per
15 day from increasing the amount of the withdrawal above such limit as may be
16 established in the rule.
- 17 (2) Prohibiting any person from constructing, installing or operating any new well
18 or withdrawal facilities having a capacity in excess of a rate established in the
19 rule; but such prohibition shall not extend to any new well or facility having
20 a capacity of less than 10,000 gallons per day.
- 21 (3) Prohibiting any person discharging water pollutants to the waters from
22 increasing the rate of discharge in excess of the rate established in the rule.
- 23 (4) Prohibiting any person from constructing, installing or operating any facility
24 that will or may result in the discharge of water pollutants to the waters in
25 excess of the rate established in the rule.
- 26 (5) Prohibiting any agency or political subdivision of the State from issuing any
27 permit or similar document for the construction, installation, or operation of
28 any new or existing facilities for withdrawing water from or discharging water
29 pollutants to the waters in such area in excess of the rates established in the
30 rule.
- 31 (6) Requiring any person who maintains an existing surface water transfer from
32 one river basin to another to reduce the amount of transfer to such rates
33 established in the rule.

34 The determination of the Commission shall be based upon the record of the public hearing
35 and other information considered by the Commission in the rulemaking proceeding. The rule
36 shall describe the geographical area of the State affected thereby with particularity and shall
37 provide that the prohibitions set forth therein shall continue pending a determination by the
38 Commission that the generalized condition of water depletion or water pollution within the area
39 has ceased.

40"

41 **SECTION 5.(a)** G.S. 143-215.22L(n) reads as rewritten:

42 "(n) Final Determination: Certificate Conditions and Limitations. – The Commission may
43 grant the certificate in whole or in part, or deny the certificate. The Commission may impose any
44 conditions or limitations on a certificate that the Commission finds necessary to achieve the
45 purposes of this Part including a limit on the period for which the certificate is valid. The
46 conditions and limitations shall include any mitigation measures proposed by the applicant to
47 minimize any detrimental effects within the source and receiving river basins. In addition, the
48 certificate shall require all of the following conditions and limitations:

- 49 (1) A water conservation plan that specifies the water conservation measures that
50 will be implemented by the applicant in the receiving river basin to ensure the
51 efficient use of the transferred water. Except in circumstances of technical or

1 economic infeasibility or adverse environmental impact, the water
2 conservation plan shall provide for the mandatory implementation of water
3 conservation measures by the applicant that equal or exceed the most stringent
4 water conservation plan implemented by a public water system that withdraws
5 water from the source river basin.

6 (2) A drought management plan that specifies how the transfer shall be managed
7 to protect the source river basin during drought conditions or other
8 emergencies that occur within the source river basin. Except in circumstances
9 of technical or economic infeasibility or adverse environmental impact, this
10 drought management plan shall include mandatory reductions in the permitted
11 amount of the transfer based on the severity and duration of a drought
12 occurring within the source river basin and shall provide for the mandatory
13 implementation of a drought management plan by the applicant that equals or
14 exceeds the most stringent water conservation plan implemented by a public
15 water system that withdraws water from the source river basin.

16 (3) The maximum amount of water that may be transferred, calculated as a daily
17 average of a calendar month, and methods or devices required to be installed
18 and operated that measure the amount of water that is transferred.

19 (4) A provision that the Commission may amend a certificate to reduce the
20 maximum amount of water authorized to be transferred whenever it appears
21 that an alternative source of water is available to the certificate holder from
22 within the receiving river basin, including, but not limited to, the purchase of
23 water from another water supplier within the receiving basin or to the transfer
24 of water from another sub-basin within the receiving major river basin.

25 (5) A provision that the Commission shall amend the certificate to reduce the
26 maximum amount of water authorized to be transferred if the Commission
27 finds that the applicant's current projected water needs are significantly less
28 than the applicant's projected water needs at the time the certificate was
29 granted.

30 (5a) A provision that the Commission shall amend the certificate to reduce the
31 maximum amount of water authorized to be transferred if the Commission
32 finds that a reduction is necessary to avoid detrimental effects on the source
33 river basin, including present and future effects on public, industrial,
34 economic, recreational, and agricultural water supply needs, wastewater
35 assimilation, water quality, fish and wildlife habitat, electric power
36 generation, navigation, and recreation.

37 (6) A requirement that the certificate holder report the quantity of water
38 transferred during each calendar quarter. The report required by this
39 subdivision shall be submitted to the Commission no later than 30 days after
40 the end of the quarter.

41 (7) Except as provided in this subdivision, a provision that the applicant will not
42 resell the water that would be transferred pursuant to the certificate to another
43 public water system. This limitation shall not apply in the case of a proposed
44 resale or transfer among public water systems within the receiving river basin
45 as part of an interlocal agreement or other regional water supply arrangement,
46 provided that each participant in the interlocal agreement or regional water
47 supply arrangement is a co-applicant for the certificate and will be subject to
48 all the terms, conditions, and limitations made applicable to any lead or
49 primary applicant."

50 **SECTION 5.(b)** No later than 60 days after the effective date of this act, any person
51 issued a certificate for an interbasin transfer by the Environmental Management Commission on

1 or before the effective date of this section shall submit a request to the Commission to modify
2 the certificate to incorporate the provision required by G.S. 143-215.22L(n)(5a), as enacted by
3 subsection (a) of this section.
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5 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

6 **SECTION 6.** Severability. – If any provision of this act or its application is held
7 invalid, the invalidity does not affect other provisions or applications of this act that can be given
8 effect without the invalid provisions or application and, to this end, the provisions of this act are
9 severable.

10 **SECTION 7.** Effective Date. – Except as otherwise provided, this act is effective
11 when it becomes law.