

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-493
SENATE BILL 114

AN ACT TO ESTABLISH A FRAMEWORK FOR DEVELOPING AND IMPLEMENTING COOPERATIVE STATE-LOCAL WATER QUALITY PROTECTION PLANS FOR RIVER BASINS AND SEGMENTS OF RIVER BASINS AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.14. Cooperative State-local coalition water quality protection plans.

(a) Definitions. -- The following definitions apply in this section:

- (1) 'Basin' means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.
- (2) 'Coalition plan' means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.
- (3) 'Local government' means a city, county, special district, authority, or other political subdivision of the State.
- (4) 'Water quality protection' means management of water use, quantity, and quality.

(b) Legislative Findings. -- This section establishes a framework to encourage State-local pollutant reduction strategies for basins under the supervision and coordination of the Commission. The General Assembly finds that:

- (1) Water quality conditions and sources of water contamination may vary from one basin to another.
- (2) Water quality conditions and sources of water contamination may vary within a basin.
- (3) Some local governments have demonstrated greater capacity than others to protect and improve water quality conditions.
- (4) In some areas of the State artificial alteration of watercourses by surface water impoundments or other means may have a significant effect on water quality.

- (5) Imposition of standard basinwide water quality protection requirements and strategies may not equitably address the varying conditions and needs of all areas.
- (6) There is a need to develop distinct approaches to address water quality protection in basins in the State, drawing upon the resources of local governments and the State, under the supervision and coordination of the Commission.

(c) Legislative Goals and Policies. -- It is the goal of the General Assembly that, to the extent practicable, the State shall adopt water quality protection plans that are developed and implemented in cooperation and coordination with local governments and that the State shall adopt water quality protection requirements that are proportional to the relative contributions of pollution from all sources in terms of both the loading and proximity of those sources. Furthermore, it is the goal of the General Assembly to encourage and support State-local partnerships for improved water quality protection through the provision of technical and financial assistance available through the Clean Water Management Trust Fund, the Wetlands Restoration Fund, water quality planning and project grant programs, the State's revolving loan and grant programs for water and wastewater facilities, other funding sources, and future appropriations. The Commission shall implement these goals in accordance with the standards, procedures, and requirements set out in this section.

(d) The Commission may, as an alternative method of attaining water quality standards in a basin, approve a coalition plan proposed by a coalition of local governments whose territorial area collectively includes the affected basin in the manner provided by this section. The Commission may approve a coalition plan proposed by a coalition of local governments whose territorial area or water quality protection plan does not include all of an affected basin if the Commission determines that the omission will not adversely affect water quality.

(e) A coalition of local governments choosing to propose a coalition plan to the Commission shall do so through a nonprofit corporation the coalition of local governments incorporates with the Secretary of State.

(f) The Commission may approve a coalition plan only if the Commission first determines that:

- (1) The basin under consideration is an appropriate unit for water quality planning.
- (2) The coalition plan meets the requirements of subsection (g) of this section.
- (3) The coalition of local governments has formed a nonprofit corporation pursuant to subsection (e) of this section.
- (4) The coalition plan has been approved by the governing board of each local government that is a member of the coalition of local governments proposing the coalition plan.

- (5) The coalition plan will provide a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices in the affected basin.
- (g) A coalition plan shall include all of the following:
 - (1) An assessment of water quality and related water quantity management in the affected basin.
 - (2) A description of the goals and objectives for protection and improvement of water quality and related water quantity management in the affected basin.
 - (3) A workplan that describes proposed water quality protection strategies, including point and nonpoint source programs, for achieving the specified goals and objectives; an implementation strategy including specified tasks, timetables for action, implementation responsibilities of State and local agencies; and sources of funding, where applicable.
 - (4) A description of the performance indicators and benchmarks that will be used to measure progress in achieving the specified goals and objectives, and an associated monitoring framework.
 - (5) A timetable for reporting to the Commission on progress in implementing the coalition plan.
- (h) A coalition plan shall cover a specified period. The coalition plan may provide for the phasing in of specific strategies, tasks, or mechanisms by specified dates within the period covered by the plan. The Commission may approve one or more successive coalition plan periods. The coalition plan may include strategies that vary among the subareas or jurisdictions of the geographic area covered by the coalition plan.
- (i) If a local government chooses to withdraw from a coalition of local governments or fails to implement a coalition plan, the remaining members of a coalition of local governments may prepare and submit a revised coalition plan for approval by the Commission. If the Commission determines that an approved coalition plan no longer provides a viable alternative method of attaining equivalent compliance with federal and State water quality standards, classifications, and management practices, the Commission may suspend or revoke its approval of the coalition plan.
- (j) The Commission may approve one or more amendments to a coalition plan proposed by a coalition of local governments through its nonprofit corporation with the approval of the governing board of each local government that is a member of the coalition of local governments that proposed the coalition plan.
- (k) With the approval of the Commission, any coalition of local governments with an approved coalition plan may establish and implement a pollutant trading program for specific pollutants between and among point source dischargers and nonpoint pollution sources.
- (l) The Commission shall submit an annual progress report on the implementation of this section to the Environmental Review Commission on or before 1 October of each year."

Section 2. The Environmental Management Commission shall submit the first report required by G.S. 143-214.14(l), as enacted by Section 1 of this act, on or before 1 October 1998.

Section 3. Section 1 of this act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management Commission may adopt temporary rules to implement Section 1 of this act for one year from the date this act becomes effective.

Section 4. Notwithstanding the provisions of G.S. 143-215.84 and G.S. 143-215.94E and except as provided in subsection (d) of Section 1 of Chapter 648 of the 1995 Session Laws (1996 Regular Session), no person shall be required to clean up a discharge or release from a leaking petroleum underground storage tank that has been classified as having a Class CDE impact pursuant to subsection (b) of Section 1 of Chapter 648 of the 1995 Session Laws (1996 Regular Session).

Section 5. The Environmental Management Commission shall adopt the rule required by G.S. 143-215.94V(b) and Section 6 of Chapter 648 of the 1995 Session Laws (1996 Regular Session) as a temporary rule no later than 11 September 1997.

Section 6. This act is effective when it becomes law. Section 4 of this act expires when the temporary rule required by Section 5 of this act becomes effective as provided in G.S. 150B-21.3(a).

In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:03 a.m. this 11th day of September, 1997