

**LEGISLATIVE
RESEARCH COMMISSION**

WATER ISSUES



**REPORT TO THE
1991 GENERAL ASSEMBLY
OF NORTH CAROLINA
1992 SESSION**

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STATE OF NORTH CAROLINA
LEGISLATIVE RESEARCH COMMISSION
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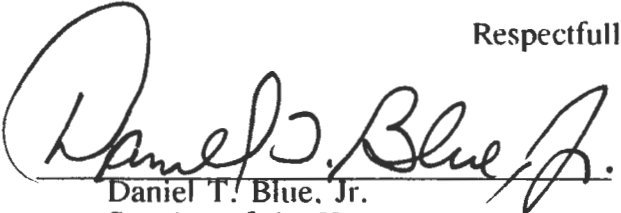


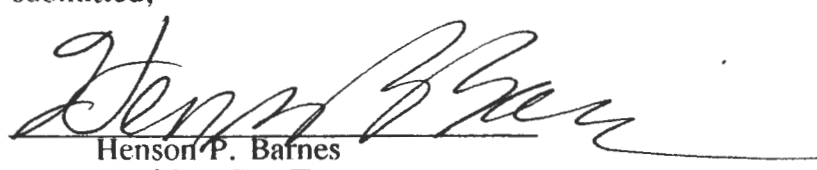
May 26, 1992

TO THE MEMBERS OF THE 1992 GENERAL ASSEMBLY (REGULAR SESSION):

The Legislative Research Commission herewith submits to you for your consideration its interim report on groundwater and surface water issues. The report was prepared by the Legislative Research Commission's Committee on Water Issues pursuant to Sections 2.1(49) and 2.1(3) of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,


Daniel T. Blue, Jr.
Speaker of the House


Henson P. Barnes
President Pro Tempore

Cochairmen
Legislative Research Commission

1991-1992

LEGISLATIVE RESEARCH COMMISSION

MEMBERSHIP

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PREFACE

The Legislative Research Commission, established by Article 6B of Chapter 120 of the General Statutes, is a general purpose study group. The Commission is cochaired by the Speaker of the House and the President Pro Tempore of the Senate and has five additional members appointed from each house of the General Assembly. Among the Commission's duties is that of making or causing to be made, upon the direction of the General Assembly, "such studies of and investigations into governmental agencies and institutions and matters of public policy as will aid the General Assembly in performing its duties in the most efficient and effective manner" (G.S. 120-30.17(1)).

At the direction of the 1991 General Assembly, the Legislative Research Commission has undertaken studies of numerous subjects. These studies were grouped into broad categories and each member of the Commission was given responsibility for one category of study. The Cochairs of the Legislative Research Commission, under the authority of G.S. 120-30.10(b) and (c), appointed committees consisting of members of the General Assembly and the public to conduct the studies. Cochairs, one from each house of the General Assembly, were designated for each committee.

The Legislative Research Commission combined the surface water and groundwater studies authorized by Sections 2.1(3) and 2.1(49), respectively, of Chapter 754 of the 1991 Session Laws (1991 Regular Session) into a water issues study. Chapter 754 states that the Commission may consider Senate Joint Resolution 85, House Joint Resolution 127 and Senate Joint Resolution 13 in determining the nature, scope and aspects of the study. The relevant portions of Chapter 754 and the referenced bills are included in Appendix A. The Legislative Research Commission grouped this study in its Environment area under the direction of Senator Lura Tally. The Committee was chaired by Senator Lura Tally and Representative Aaron E. Fussell. The full

membership of the Committee is listed in Appendix B of this report. A committee notebook containing the committee minutes and all information presented to the committee is filed in the Legislative Library.

COMMITTEE PROCEEDINGS

The Legislative Research Commission's Study on Water Issues met five times during the 1991-92 biennium. The topics considered at those meetings included: progress toward implementation of the Watershed Protection Act, interbasin transfers of water, package treatment plants, regulation of hog farms, community water supply systems, proposed revisions by the Environmental Management Commission to the groundwater rules, report of the status of the interagency pesticide groundwater study, funding for water and wastewater projects including the State Clean Water Revolving Loan and Grant Fund, and licensing of well drillers.

In 1991, the Legislative Research Commission created the Committee on Water Issues by combining two previously funded studies (the Development of a State Strategy for the Protection of All Groundwater Resources and the Surface Water Studies). This combination of studies gave the Committee a much broader scope of issues to choose from when determining the direction of the Committee. The Committee devoted its first meeting to a planning meeting which included a discussion of issues raised by Committee members, the Department of Environment, Health, and Natural Resources, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, environmentalists and others. The Committee dedicated its next three meetings to a discussion of the main issues raised by all interested parties. At its fifth meeting, the Committee met and approved its interim report and proposed legislation to the Legislative Research Commission. A brief summary of the information compiled by the Committee on each area studied follows.

Watershed Protection Act

Mr. Steve Zoufaly, Supervisor of the Water Supply Protection Program, Department of Environment, Health, and Natural Resources, provided the Committee with background information on the Watershed Protection Act. Prior to 1989, local governments protected watersheds through a voluntary, cooperative program with the State. In 1989, House Bill 156 created the Watershed Protection Act which made the program mandatory, and required the Environmental Management Commission to establish minimum statewide standards. Under the Act, all local governments that have jurisdiction over watersheds must develop ordinances that are at least as stringent as the statewide standards to protect drinking water.

The Watershed Protection Act created an advisory council comprised of nineteen members representing local and state government, developmental interests, environmental interests, and experts in the area of watershed protection. The Advisory Council made recommendations to the Environmental Management Commission concerning the proposed rules. Numerous public hearings were held across the State to get public input on the minimum standards. The rules adopted by the Environmental Management Commission in February, 1992, create five watershed classifications and provide minimum standards for the protection of watersheds.

Mr. Bill Holman, lobbyist for the Sierra Club and the North Carolina Conservation Council, told the Committee that the Watershed Protection Act enacted in 1989 by the General Assembly was one of the most important pieces of environmental legislation enacted in the 1980's. In Mr. Holman's opinion, the Environmental Management Commission failed to follow the legislature's mandate to adopt minimum statewide rules for the protection of watersheds. Mr. Holman said that he did not think the newly adopted rules gave local government the flexibility they wanted; did not

encourage regional cooperation; and went too far in providing a grandfather provision to allow development in watersheds.

Mr. Charles Brady, member of the Environmental Management Commission, spoke to the Committee concerning an alternative plan he had proposed to the Environmental Management Commission prior to passage of the watershed protection rules. Mr. Brady said that in recognition of the many differences across the State, the Environmental Management Commission should have provided more flexibility rather than adopting one set of rules for everyone.

The Committee will continue to monitor the Environmental Management Commission's activities concerning the watershed protection program, including the reclassification of watersheds in the State.

Statewide Water Plan

Mr. John Morris, Director of Water Resources, Department of Environment, Health, and Natural Resources, discussed the statewide water supply plan process created by House Bill 157 in 1989. The State has three primary concerns: 1) assuring adequate water supplies for future needs; 2) balancing among competing uses for water; and 3) conserving water. Mr. Morris said local governments have recently completed detailed questionnaires that discuss existing and projected water needs. The information is being used to create a statewide database. The Division of Water Resources plans to use local plans as building blocks to create a statewide plan.

Interbasin Transfers of Water

Mr. John Morris discussed progress toward implementing Senate Bill 943 (enacted in 1991) which required users of one million gallons or more of surface water

who either withdraw or transfer water from one river basin to another to register that water use with the Department. According to Mr. Morris, the purpose of the bill is to gather information on the amount of water used or transferred.

The Water Resources Division held six informational meetings to develop guidelines that specify details concerning the registration procedure. Permanent rules were adopted by the Environmental Management Commission in February, 1992. The Division is in the process of collecting that information now.

Package Treatment Plants

Mr. Steve Tedder, Water Quality Section Chief, Division of Environmental Management, Department of Environment, Health, and Natural Resources, discussed package treatment plants and said that there has been a steady increase in the number of plants in the State since 1988. There are currently 3,200 facilities with National Pollutant Discharge Elimination System (NPDES) permits. Of those, approximately 1,800 are actively discharging waste. In addition, there are 2,800 smaller, non-municipal treatment plants. North Carolina has one of the largest monitoring programs in the United States. Frequent monitoring is necessary due to the changing characteristics of the waste stream.

In order to protect water quality and have a good program, enforcement of permits has been increased. A permittee in noncompliance with a permit is sent a "notice of violation" and given a specified period within which to comply. If a permittee continues to be in noncompliance, other enforcement options are available to the Department, including a cease and desist order or a revocation of the permit. Permits must be renewed every five years and the Department may modify or refuse to renew the permit based on changes.

Mr. Tedder described funding of the water quality budget as follows: 32% of the budget is appropriated by the State; 20% of funds is from the permit fees; and 48-50% is from federal grants.

Mr. Mike Ferrell, Wake County Attorney, said several counties were attempting to perform their own monitoring to alleviate the under-staffing and inability of the State to perform the monitoring. G.S. 103A-39(g) provides that "A local board of health may impose a fee for services to be rendered by a local health department, except where the imposition of a fee is prohibited by performing the services as an agent of the State." According to Mr. Ferrell, this statutory language prohibits a county health department from recovering its costs in providing the monitoring on a local level because the county is performing responsibilities delegated to the State and is therefore acting as an "agent of the State." Mr. Ferrell asked the Committee to amend the statute to allow a county to use cost recovery for local monitoring programs. The Committee was concerned about the cost of the monitoring and felt that further study was needed on this issue.

Regulation of Hog Farms

Mr. Steve Tedder discussed a proposed draft of rules entitled, "Concept Paper Draft 1-24-92, Water Quality Regulations For Animal Waste Management." At present, animal operations are "deemed permitted" for purposes of water, air, and land permits provided these operations utilize "best management practices." The proposed water quality regulations for animal waste management would include a registration process based on the size and location of the operation.

Mr. Doug Rader, Senior Scientist with the North Carolina Environmental Defense Fund, is a specialist in water quality and the control of both point and non-

point sources of pollution. Mr. Rader thought the proposed rules were a good first step in addressing these complicated problems. Mr. Rader said there are two types of animal operations that have potential impacts on water quality: animal feeding operations and those in the slaughtering process. According to Mr. Rader, animal feeding operations are a major source of nonpoint pollution. One program designed to help with water pollution is the Agriculture Cost Share Program.

The purpose of the Agriculture Cost Share Program is to reduce the input of agricultural nonpoint source pollution into the water. Pursuant to G.S. 143-215.74, the State may fund up to 75% of the average cost (up to a maximum of \$15,000) for the following practices: conservation tillage, diversions, filter strips, field borders, critical area plantings, sediment control structures, sod-based rotations, grassed waterways, strip-cropping, terraces, cropland conversion to permanent vegetation, grade control structures, water control structures, and animal waste managements systems and application.

Mr. Jay Zenner, Senior Vice President of Phoenix Communications, LTD, represented Smithfield Foods, Inc., and Carolina Food Processors. Mr. Zenner discussed their compliance history and how the industry has worked with the Division of Environmental Management. Mr. Zenner said that he supports the direction that the Division is going.

Mr. John Memory, attorney in Scotland County spoke on behalf of a nine citizen coalition located throughout the eastern part of the State. This coalition is concerned about environmental quality of life issues and the adverse consequences of livestock operations. Mr. Memory said there were surface water and groundwater pollution problems as well as odor problems with the growing concentration of livestock operations. The coalition supports an ordinance which would require livestock

operators to obtain a permit and submit the following three plans: Waste control; odor control; and vermin control. To date, no county has adopted such an ordinance.

Dr. Robert E. Cook, representing the North Carolina Poultry Federation and the North Carolina Pork Producers, said the industry has four major concerns. These concerns include: food safety, worker safety, environment, and contract growers. Dr. Cook stressed the fact that these organizations will continue to work closely with the Division to develop a responsible plan.

Mr. Jullian Philpott, Associate General Counsel and State Legislative Director for the North Carolina Farm Bureau, discussed the federal and State regulations with which hog farm operations and other animal operations must comply. The Federal Farm Bills of 1985 and 1990 require that animal operations develop conservation plans by 1991 and that the plans be implemented by 1994. Mr. Philpott said one statewide program that has had a major, positive impact on water quality has been the Agricultural Cost Share Program.

Community Water Supply Systems

The North Carolina Drinking Water Act authorizes the Commission for Health Service and the Department of Environment, Health, and Natural Resources to regulate public water systems. The public water system supervision program is a combination of State and federal programs. The State has primary enforcement responsibility for the federal Safe Drinking Water Act. Through a program grant, the federal government funds approximately half of the program costs. The federal requirements pertain primarily to monitoring and enforcement activities.

A community water supply system is a public water system that serves piped water for human consumption to at least 15 connections or 25 people for 60 or more

days each year. Examples of community water systems include cities, mobile home parks, and nursing homes. Due to the implementation of new rules at the federal level it has become necessary for the State to perform additional monitoring and require additional testing (such as for lead and copper) of these water supply systems. As a result, the Department was authorized to implement a fee schedule specified by statute. The amount of the annual fee is based on the size of the system (number of connections). The proceeds of the fee are to be used by the Department to perform additional monitoring, and to provide technical assistance and supervision of community water supply systems.

The Committee's discussion focused on two main issues with respect to community water supply systems. First, a local community was given an opportunity to discuss problems with a radioactive-contaminated well, insufficient water to supply the community, and a slow response from the Department of Environment, Health, and Natural Resources in addressing these issues. Ms. Linda Sewall, Deputy Director of the Department of Environment, Health, and Natural Resources responded to the issues raised. Ms. Sewall said that radioactivity that appears in some wells in North Carolina occurs naturally. The contamination comes from the rocks and shows up in deep wells. The Department has changed its procedures to try to find the contaminated wells more quickly.

The second issue raised concerned the newly enacted fees for community water supply systems.

Mr. Sherwood Bullock, President of the Nash County Mobile Home Park Owners Association, discussed the fees that were established during the 1991 Legislative Session. Mr. Bullock said the owners of the system would pass the cost of the fee on to their park home residents and many of the tenants could not afford it.

Several Committee members noted that the amount of the fee charged to smaller systems such as a mobile home park was 500 times the amount charged to a larger community public water supply system. Ms. Linda Sewall said that most of the Division's time was spent on the smaller systems. The fees were established by statute to provide technical support to the public water suppliers and the citizens served by the public water suppliers.

Ms. Sewall requested that the Committee recommend legislation to allow the Department of Environment, Health, and Natural Resources to charge only half of the annual fee during the first year. According to Ms. Sewall, the rationale behind the request is that the fees were not effective until January 1, 1992; therefore, the Department only billed owners of community water supply systems for half of the year. In addition, the proposed legislation would allow the Department to prorate the fee for those facilities that begin operating after the beginning of the calendar year.

Groundwater Rules

Mr. Perry Nelson, Groundwater Section Chief in the Environmental Health Division of the Department of Environment, Health, and Natural Resources discussed proposed revisions to the groundwater rules that his Division is drafting. Mr. Nelson said the current rules establish the standards for protecting groundwater quality. The Division argues that the process is slow and expensive and does not ensure a complete cleanup. The Division is looking at two options. The first option would require an active cleanup when justified to protect human health and the environment. The second option would create an additional classification of groundwater to allow for a lower cleanup standard or a risk-based clean-up level. The Division estimates that it will present a draft of the rules to the Environmental Management Commission at their

April, 1992 meeting. The Water Issues Committee will continue to monitor the effect of the proposed revised rules.

Interagency Pesticide Groundwater Study

Dr. Henry Wade, Central Project Coordinator for the Interagency Pesticide Groundwater Study, provided the Committee with background and an update on the status of the study. The purpose of the study is to collect data concerning the use of 29 commonly used pesticides by farmers following application to crop and noncrop sites. The study will look at the impact of pesticide use on groundwater. Twenty-five sites were selected for the study based on the location of major crops in the State. Most sites are in the rural part of the State. Monitoring wells will be tested, and if found to be contaminated will be retested. The second phase of the study will involve the installation of 100 shallow monitoring wells near areas found to be contaminated. The study will continue over several years and the Committee will continue to monitor its progress.

Funding for Water and Wastewater Projects

Clean Water Revolving Loan and Grant Fund

The Committee found that funding for water and wastewater projects is a top priority and is necessary to the infrastructure of this State as well as to encourage future economic development. Current and future funding needs were discussed at two meetings. Mr. Coy Batten, Assistant Chief of Construction Grants and Loan Program, Environmental Management Division, Department of Environment, Health, and Natural Resources, provided background information. The Construction Grants and Loan

Program Section administers two separate funds: 1) the Federal State Revolving Loan Program; and 2) the State Clean Water Revolving Loan and Grant Program. Municipalities apply to the Department of Environment, Health, and Natural Resources for these funds. The State must provide a 20% match in order to receive federal funds. The federal program provides low interest rates for a maximum term of 20 years and must be used for wastewater projects. The Department rates each project based on priority criteria. Recommendations are given to the Environmental Management Commission and following public hearings are forwarded to the United States Environmental Protection Agency for final approval.

The State Clean Water Revolving Loan and Grant Fund was created by the General Assembly in 1987. Funds not necessary for the 20% federal match are deposited in this fund. The funds are divided between water supply projects (approximately one-third) and wastewater projects (approximately two-thirds). The same priority criteria used for federal funds rate projects for purposes of the State fund. The State fund has not been adequately funded since its creation.

Mr. Ellis Hankins, General Counsel for the League of Municipalities, estimated that approximately five billion, nine hundred million dollars (\$5,900,000,000) would be needed for water and wastewater projects over the next 20 years. Mr. Hankins mentioned the following options for funding these projects: leveraging local funds, state appropriations, lottery proceeds for local capital projects, or bond issues. The Committee focused its discussion on a bond issue.

The Committee recommends that the General Assembly consider legislation to authorize a bond issue for local water and wastewater projects. The Committee debated issues such as: 1) the amount of the bond; 2) eligibility criteria; and 3) the purpose for use of the bonds. In addition, the Committee discussed whether

repayment of the loans by local government units should be placed in a revolving fund or used to service the debt incurred by the State.

Licensing of Well Drillers

Mr. Charles Brinkley, a well driller from Duplin County, discussed the necessity to license well drillers. Mr. Brinkley is currently active in the National Groundwater Association and the North Carolina Groundwater Association. He told the Committee that the well drillers and pump installers need to demonstrate the ability to perform a sanitary and correct installation. At present, a person can contact the Department of Environment, Health, and Natural Resources for a registration number without demonstrating the ability to do the job. In addition, Mr. Brinkley said the Department needs stronger enforcement of the rules. In order to insure proper installation of wells, Mr. Brinkley said a licensing program should be established. Mr. Brinkley told the Committee that this State now ranks in the bottom 20% in the Nation without a licensing program for installers and drillers.

Mr. Buzz Nelson, with the Department of Environment, Health, and Natural Resources, said that the Department has always been in favor of a strong well driller's licensing act. Mr. Nelson said that North Carolina had a licensing program which was rescinded in 1977. In 1985, a bill endorsed by the Groundwater Association and the Department was introduced, but failed in Committee.

The Committee recommends that the General Assembly enact legislation to create a licensing program for well drillers and pump installers to insure that proper well installation takes place and to protect the groundwater in this State.

RECOMMENDATIONS

The Legislative Research Commission Study Committee on Water Issues makes the following recommendations:

1. The Committee found that having vested authority in the Environmental Management Commission to adopt rules concerning watershed protection, it would be premature for the General Assembly to enact specific legislative proposals until the Commission completed its work. Therefore, the Committee recommends that it continue to monitor the implementation of the watershed protection program.

2. The Committee shall continue to monitor the Department of Environment, Health, and Natural Resources' implementation of the State's water supply plan, the registration of water transfers, and the Department's progress in completing the State's comprehensive water supply plan.

3. The Committee shall monitor proposed revisions being considered by the Environmental Management Commission to the groundwater protection rules.

4. The Committee shall continue to study the authorization of counties to charge a fee for monitoring compliance with discharge permits.

5. The Committee shall monitor and recommends the enactment of pending legislation regarding water issues set forth in Appendix C.

6. The Committee recommends that the General Assembly enact legislation regarding community water system fees (See Legislative Proposal I, set forth in Appendix D).

7. The Committee recommends that the General Assembly consider legislation to authorize a bond issue for local water and wastewater projects. (See Legislative Proposal II, set forth in Appendix E).

8. The Committee recommends that the General Assembly enact legislation establishing a well and pump contractors licensing act (See Legislative Proposal II, set forth in Appendix F).

9. The Committee shall monitor the proposed water quality rules for animal waste management being developed by the Environmental Management Commission.

APPENDICES

APPENDIX A

**CHAPTER 754
SENATE BILL 917**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

PART I.-----TITLE

Section 1. This act shall be known as "The Studies Act of 1991."

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PART II.-----LEGISLATIVE RESEARCH COMMISSION

Sec. 2.1. The Legislative Research Commission may study the topics listed below....

(3) Surface Water Issues, including consumptive uses of water and the effect of such uses on the State's water resources, other present and projected uses of water, impoundments, and water resources management--study continued (H.J.R. 127 - Payne, S.J.R. 85 - Block),

.

(49) Development of a State Strategy for the Protection of All Groundwater Resources -- study continued (S.J.R. 13 - Tally),

.

Sec. 2.7. Committee Membership. For each Legislative Research Commission Committee created during the 1991-93 biennium, the cochairs of the Commission shall appoint the Committee membership.

Sec. 2.8. Reporting Dates. For each of the topics the Legislative Research Commission decides to study under this act or pursuant to G.S. 120-30.17(1), the Commission may report its findings, together with any recommended legislation, to the 1992 Regular Session of the 1991 General Assembly or the 1993 General Assembly, or both.

Sec. 2.9. Bills and Resolution References. The listing of the original bill or resolution in this Part is for reference purposes only and shall not be deemed to have incorporated by reference any of the substantive provisions contained in the original bill or resolution.

Sec. 2.10. Funding. From the funds available to the General Assembly, the Legislative Services Commission may allocate additional monies to fund the work of the Legislative Research Commission.

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PART XXI.-----EFFECTIVE DATE

Sec. 21.1. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE JOINT RESOLUTION 127*

Sponsors: Representatives Payne; Gottovi and Hightower.

Referred to: Rules.

February 21, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY SURFACE WATER.

3 Be it resolved by the House of Representatives, the Senate concurring:

4 Section 1. The Legislative Research Commission may study issues
5 relating to surface water, including the following: consumptive uses of water and the
6 effect of such uses on the State's water resources, other present and projected uses of
7 water, impoundments, and water resources management. The Commission may also
8 study any other issues relevant to surface water.

9 Sec. 2. The Legislative Research Commission may make its
10 recommendations and submit an interim report to the 1991 General Assembly,
11 Regular Session 1992, and may make a final report to the 1993 General Assembly.

12 Sec. 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE JOINT RESOLUTION 85*

Sponsors: Senator Block.

Referred to: Appropriations.

February 18, 1991

1 A JOINT RESOLUTION AUTHORIZING THE LEGISLATIVE RESEARCH
2 COMMISSION TO STUDY SURFACE WATER.

3 Be it resolved by the Senate, the House of Representatives concurring:

4 Section 1. The Legislative Research Commission may study issues
5 relating to surface water, including the following: consumptive uses of water and the
6 effect of such uses on the State's water resources, other present and projected uses of
7 water, impoundments, and water resources management. The Commission may also
8 study any other issues relevant to surface water.

9 Sec. 2. The Legislative Research Commission may make its
10 recommendations and submit an interim report to the 1991 General Assembly,
11 Regular Session 1992, and may make a final report to the 1993 General Assembly.

12 Sec. 3. This resolution is effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

1

SENATE JOINT RESOLUTION 13*

Sponsors: Senators Tally, Basnight, Block, Walker, Winner; Plexico, Smith, and Ward.

Referred to: Appropriations.

February 6, 1991

1 A JOINT RESOLUTION TO CONTINUE THE LEGISLATIVE RESEARCH
2 COMMISSION STUDY ON THE DEVELOPMENT OF A STATE STRATEGY
3 FOR THE PROTECTION OF ALL GROUNDWATER RESOURCES.

4 Whereas, the 1989 Session of the General Assembly authorized the
5 Legislative Research Commission, Section 2.1 of Chapter 802 of the 1989 Session
6 Laws to study the development of a State strategy for the protection of all
7 groundwater resources; and

8 Whereas, the 1990 Session of the General Assembly authorized the
9 Legislative Research Commission, Section 2.1 of Chapter 1078 of the 1990 Session
10 Laws to study individual and small system wastewater needs, which study was
11 referred to the Groundwater Study Commission; and

12 Whereas, in order to protect groundwater resources it is necessary to
13 study all activities which affect groundwater; and

14 Whereas, the Groundwater Study Committee was unable to complete its
15 work due to its expanded scope;

16 Now, therefore, be it resolved by the Senate, the House of Representatives
17 concurring:

18 Section 1. The Legislative Research Commission as structured by Article
19 6B of Chapter 120 of the General Statutes, may continue the study of all groundwater
20 management issues in the State of North Carolina. The Commission shall ascertain
21 the need for a Comprehensive Groundwater Protection Act which would correct the
22 impact of fragmented and ambiguous authorities on the State's ability to effectively
23 protect groundwater resources. In addition, the Commission shall continue to study
24 the effects of all groundwater pollution on the State's ability to provide clean
25 drinking water for all of its citizens, including but not limited to: improper and

1 unregulated well construction; leaking underground storage tanks; improper solid and
2 hazardous waste disposal; and pesticide contamination. Further, the Commission
3 shall continue to study individual and small system wastewater needs and access to
4 these basic resources. The Commission is further authorized to prepare an interim
5 report of its study, and to make a final report, including recommendations to the
6 1993 General Assembly.

7 Sec. 2. This resolution is effective upon ratification.

APPENDIX B

MEMBERSHIP OF LRC COMMITTEE ON WATER ISSUES

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President Pro Tempore's Appointments

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Mocksville, NC 27028
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Clerk:

Ms. Sarah Murphy
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GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

H

1

HOUSE BILL 17*

Short Title: County Clean-Up Funds.

(Public)

Sponsors: Representatives H. Hunter, Hardaway, Brown, Chapin, DeVane, Justus, and Wood.

Referred to: Rules.

February 4, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO QUALIFIED COUNTIES TO SURVEY,
3 CLEAN UP, AND ELIMINATE ILLEGAL DISCHARGES OF SEWAGE ONTO
4 LAND OR INTO SURFACE WATERS IN VIOLATION OF ARTICLE 11 OF
5 CHAPTER 130A OF THE NORTH CAROLINA GENERAL STATUTES.

6 Whereas, the 1987-88 General Assembly funded a project in Haywood
7 County to survey, clean up, and eliminate illegal discharges of sewage into streams of
8 this State;

9 Whereas, the project was successful in identifying and assisting Haywood
10 County to clean up the streams and rivers of this State;

11 Whereas, it is the intent of the North Carolina General Assembly to
12 expand the project to assist 42 rural counties to survey, clean up, and eliminate illegal
13 discharges of sewage onto land or into surface waters; and

14 Whereas, the selected counties include those with eight percent (8%) or
15 more residences without public sewer or septic tank systems based on 1980 Census
16 Data; Now, therefore,

17 The General Assembly of North Carolina enacts:

18 Section 1. (a) There is appropriated from the General Fund to the
19 Department of Environment, Health, and Natural Resources the sum of \$2,100,000
20 for the 1991-92 fiscal year which shall be allocated in grants of \$50,000 to the
21 following counties: Alleghany, Anson, Ashe, Bertie, Bladen, Camden, Caswell,
22 Chatham, Cherokee, Chowan, Clay, Columbus, Duplin, Edgecombe, Franklin, Gates,
23 Graham, Granville, Greene, Halifax, Hertford, Hoke, Hyde, Jones, Madison, Martin,

1 Mitchell, Montgomery, Nash, Northampton, Pamlico, Pender, Perquimans, Person,
2 Robeson, Sampson, Stokes, Tyrrell, Vance, Warren, Washington, and Yancey. Each
3 grant shall be used by the county to enter into a contract with the local or district
4 county health departments to survey illegal discharges of sewage onto land or into
5 surface waters of this State in violation of Article 11 of Chapter 130A of the North
6 Carolina General Statutes.

7 (b) There is appropriated from the General Fund to the Department of
8 Environment, Health, and Natural Resources the sum of \$4,200,000 for the 1992-93
9 fiscal year which shall be allocated in grants of \$100,000 to the following counties:
10 Alleghany, Anson, Ashe, Bertie, Bladen, Camden, Caswell, Chatham, Cherokee,
11 Chowan, Clay, Columbus, Duplin, Edgecombe, Franklin, Gates, Graham, Granville,
12 Greene, Halifax, Hertford, Hoke, Hyde, Jones, Madison, Martin, Mitchell,
13 Montgomery, Nash, Northampton, Pamlico, Pender, Perquimans, Person, Robeson,
14 Sampson, Stokes, Tyrrell, Vance, Warren, Washington, and Yancey. Each grant shall
15 be used by the county to enter into a contract with the local or district county health
16 departments to clean up and eliminate the discharges identified in the survey
17 conducted pursuant to subsection (a) of Section 1 of this act; provided, however, that
18 no county shall receive clean-up funds for the 1992-93 fiscal year unless that county
19 has received survey approval from the Department pursuant to Section 2 of this act.

20 Sec. 2. Funds allocated to each county under subsection (a) of Section 1
21 of this act for the 1991-92 fiscal year shall be used to survey illegal sewage discharges.
22 The Department of Environment, Health, and Natural Resources shall establish a
23 working group which shall consist of 10 members, to be designated by the North
24 Carolina Public Health Directors Association. The working group shall develop a
25 model survey for these counties and shall submit it to the Department for final
26 approval. The model survey shall be completed and approved by the Department no
27 later than August 1, 1991, or 60 days after ratification of this act, whichever is later.
28 The Department shall provide copies of the model survey to these counties within 30
29 days of the date that the model survey is finalized. The counties listed in Section 1 of
30 this act shall complete a survey that is consistent with the model survey by June 1,
31 1992. The Department shall have 30 working days from the date the Department
32 receives a county survey to determine whether the survey is deemed consistent with
33 the model survey. If the Department determines that a county survey submitted by a
34 county is not consistent with the model survey, that county shall not receive clean-up
35 funds appropriated in subsection (b) of Section 1 of this act.

36 Sec. 3. Funds allocated to each county under subsection (b) of Section 1
37 of this act for the 1992-93 fiscal year shall be used by the county to enter into a
38 contract with the local or district county health departments for grants-in-aid to low-
39 income county residents to clean up and eliminate illegal sewage discharges identified
40 by the county survey conducted under Section 2 of this act. "Low-income" means
41 those persons and families whose incomes do not exceed fifty percent (50%) of the
42 median family income for the local area, with adjustments for family size, according
43 to the latest figures available from the United States Department of Housing and

1 Urban Development. Grants-in-aid recipients must receive an improvement permit
2 from the local or district health department prior to the receipt of any grant funds.

3 Sec. 4. There is appropriated from the General Fund to the Department
4 of Environment, Health, and Natural Resources the sum of \$245,624 for the 1991-92
5 fiscal year and \$219,124 for the 1992-93 fiscal year for administrative support and up
6 to five positions to assist local officials in designing and approving sewage systems
7 which meet State and local regulatory requirements and expenses.

8 Sec. 5. There is appropriated from the General Fund to the Department
9 of Environment, Health, and Natural Resources a sum not to exceed \$170,000 for the
10 1992-93 fiscal year in incentive grants of \$10,000 to be awarded to the first 17
11 counties which receive approval by the Department for the survey submitted prior to
12 January 1, 1992. The grants shall be used for public health activities.

13 Sec. 6. Each county receiving funds under this act shall submit a final
14 report to the Department by June 30, 1993, on the expenditure of these funds.

15 Sec. 7. Those funds appropriated under subsection (a) of Section 1 of
16 this act for the 1991-92 fiscal year that are not expended as of June 30, 1992, shall
17 revert to the General Fund and may be reappropriated by the General Assembly
18 during the 1992-93 fiscal year for additional surveys based on 1980 Census Data for
19 counties with seven percent (7%) or more residents who lack public sewer or septic
20 tank systems.

21 Sec. 8. Section 2 of this act is effective upon ratification. The remainder
22 of this act becomes effective July 1, 1991, and expires June 30, 1993.

23

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 129*

Environment and Natural Resources Committee Substitute Adopted 5/30/91

Short Title: Water Transfer Permits.

(Public)

Sponsors:

Referred to:

February 20, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE REGISTRATION OF ALL WATER TRANSFERS AND
3 TO REQUIRE A PERMIT FOR THE TRANSFER OF ONE MILLION
4 GALLONS OR MORE OF WATER PER DAY FROM ONE RIVER BASIN TO
5 ANOTHER.

6 The General Assembly of North Carolina enacts:

7 Section 1. Article 21 of Chapter 143 is amended by adding a new Part to
8 read:

9 "Part 2A. Regulation of Water Transfers.

10 "§ 143-215.22A. Definitions.

11 In addition to the definitions set forth in G.S. 143-212 and G.S. 143-213, the
12 following definitions apply to this Part:

13 (1) 'Receiving river basin' means a river basin which is the recipient
14 of an increase in water as the result of a transfer of surface water
15 from a different river basin.

16 (2) 'River basin' means any of the following river basins designated on
17 the map entitled 'Major River Basins and Sub-Basins in North
18 Carolina' and filed in the Office of the Secretary of State on 16
19 April 1991:

20 a. Albemarle Sound.

21 b. Chowan River.

22 c. Meherrin River.

23 d. Roanoke River.

- 1 e. Pamlico River and Sound.
 2 f. Tar River.
 3 g. Fishing Creek.
 4 h. Neuse River.
 5 i. Contentnea Creek.
 6 j. Trent River.
 7 k. White Oak River.
 8 l. New River.
 9 m. Northeast Cape Fear River.
 10 n. Cape Fear River.
 11 o. South River.
 12 p. Deep River.
 13 q. Haw River.
 14 r. Shalotte River.
 15 s. Waccamaw River.
 16 t. Lumber River.
 17 u. Big Shoe Heel Creek.
 18 v. Yadkin River.
 19 w. Uwharrie River.
 20 x. Rocky River.
 21 y. South Yadkin River.
 22 z. New River.
 23 aa. Catawba River.
 24 bb. South Fork Catawba River.
 25 cc. Watauga River.
 26 dd. Broad River.
 27 ee. French Broad River.
 28 ff. Toe River.
 29 gg. Pigeon River.
 30 hh. Little Tennessee River.
 31 ii. Tuckasegee River.
 32 jj. Hiwassee River.
 33 kk. Savannah River Basin.
 34 (3) 'Source river basin' means a river basin which sustains a decrease
 35 in surface water as the result of a transfer of water to a different
 36 river basin and there is no significant return of the water to the
 37 river basin of origin.
 38 (4) 'Surface water' means any of the waters of the State located on or
 39 derived from the land surface that are not derived by pumping
 40 from groundwater.
 41 (5) 'Transfer' means the withdrawal, diversion, or pumping of surface
 42 water from one river basin and the use or discharge of all or any
 43 part of the water in a river basin different from the origin.
 44 "§ 143-215.22B. Permit required for water transfers.

1 Except as provided in G.S. 143-215.22I, no person may transfer 1,000,000 gallons
2 or more of surface water a day on any day from one river basin to another unless the
3 person shall first obtain a permit from the Commission.

4 "§ 143-215.22C. Permit application.

5 (a) An application for a water transfer permit shall be in writing and shall include:

6 (1) Information on existing water uses by the applicant, including the
7 following:

8 a. The approximate amount of water used for residential,
9 industrial, commercial, agricultural, and other purposes.

10 b. The existing water supply sources used by the applicant and
11 their yields.

12 c. The water conservation measures used by the applicant to
13 assure efficient use of water and avoidance of waste.

14 (2) Information on the applicant's projected use of the water to be
15 transferred under the requested permit, including the following:

16 a. The approximate amount of water projected to be used for
17 residential, industrial, commercial, agricultural, and other
18 purposes.

19 b. The water conservation measures proposed to be used by
20 the applicant to assure efficient use of the transferred water
21 and avoidance of waste.

22 c. Alternative sources of water to the proposed transfer
23 considered by the applicant, including their estimated cost,
24 environmental effects, and other relevant factors.

25 d. A description of the facilities proposed to be used to transfer
26 the water, including the location and capacity of the
27 collection, withdrawal, transfer, and discharge facilities.

28 (3) Any other information deemed necessary by the Commission for
29 review of the proposed water transfer.

30 (b) The Commission may conduct any inquiry or investigation that it considers
31 necessary before acting on an application and may require an applicant to submit
32 plans, specifications, and other information the Commission considers necessary to
33 evaluate the application.

34 "§ 143-215.22D. Public notice and public hearing requirements.

35 (a) Within 60 working days following the submission of a completed application,
36 the Commission shall publish notice of the application in the North Carolina
37 Register. The notice that an application for a water transfer has been received shall
38 include a nontechnical description of the applicant's request and a conspicuous
39 statement in bold type as to the effects of the water transfer on the source and
40 receiving rivers including a statement that the proposed source basin may decrease if
41 the requested water transfer permit is granted.

42 (b) At least one public hearing for each application for a water transfer permit
43 shall be conducted by the Commission at a location in the source river basin below
44 the point of transfer.

1 (c) The Commission shall publish notice of the public hearing once a week for two
2 consecutive weeks prior to the date of the public hearing in a newspaper of general
3 circulation in each river basin area to be affected and in a newspaper of general
4 circulation that originates in the source river basin. The Commission shall also give
5 notice of the public hearing at least 30 days in advance of the date of the hearing by
6 certified mail, return receipt requested, to each of the following within the proposed
7 source and receiving river basins within the State:

- 8 (1) A person holding a water transfer permit or who has registered a
9 water transfer under this Part.
10 (2) A person holding a wastewater discharge permit issued under the
11 National Pollutant Discharge Elimination System (NPDES) and
12 located downstream from either the proposed withdrawal or
13 discharge point of the proposed transfer.
14 (3) The board of county commissioners of each county that is located
15 entirely or partially within the source or receiving river basin.
16 (4) The governing body of any municipality that takes water from the
17 main stem of the source or receiving river downstream from the
18 proposed point of withdrawal and discharge.

19 (d) The notice of the public hearing shall include a nontechnical description of the
20 applicant's request and a conspicuous statement in bold type as to the effects of the
21 water transfer on the source and receiving rivers including a statement that the
22 proposed source basin may decrease if the requested water transfer permit is granted.
23 The notice shall further indicate the procedure to be followed by anyone wishing to
24 submit comments on the proposed water transfer and shall direct local governments
25 that objections from a local government must be filed with the Commission within 30
26 days of the receipt of the notice by the local government.

27 "§ 143-215.22E. Permit application review.

28 (a) No permit may be granted for a water transfer that will cause or result in a
29 violation of State stream classifications or of any applicable State of federal water
30 quality standard.

31 (b) In reviewing an application, the Commission shall consider information
32 developed through studies, analyses, or inquiries undertaken by the Commission and
33 information and comments submitted to the Commission by the applicant, public
34 agencies, affected persons, and the public.

35 (c) In determining whether a transfer may be permitted the Commission shall
36 specifically consider each of the following items and state in writing its findings of
37 fact with regard to each item:

- 38 (1) The necessity, reasonableness, and beneficial effects of the amount
39 of surface water proposed to be transferred and its proposed uses.
40 (2) The present and reasonably foreseeable future detrimental effects
41 on the source river basin, including effects on public, industrial,
42 and agricultural water supply, wastewater assimilation, water
43 quality, fish and wildlife habitat, hydroelectric power generation,
44 navigation, recreation, and any other relevant factors.

- 1 (3) The detrimental effects on the receiving river basin, including
 2 effects on water quality, wastewater assimilation, fish and wildlife
 3 habitat, navigation, recreation, flooding, and any other relevant
 4 factors.
- 5 (4) The reasonable alternatives to the proposed transfer, including
 6 their probable cost, environmental impacts, and any other
 7 significant factors.
- 8 (5) Mitigation measures proposed to minimize the detrimental effects.
- 9 (6) The applicant's present efforts and plans to impound water.
- 10 (7) The protection of the availability of water in the source river basin
 11 to respond to emergencies, including drought.
- 12 (8) For existing water transfers under G.S. 143-215.22I and for permit
 13 renewals under G.S. 143-215.22G, the hardship to the applicant
 14 that would result from the termination of an existing withdrawal or
 15 right of withdrawal of water.
- 16 (9) Any other facts and circumstances as are reasonably necessary to
 17 carry out the purposes of this Part.

18 (d) No permit may be granted for a water transfer unless the Commission
 19 concludes by a preponderance of the evidence based upon the preceding findings of
 20 fact that:

- 21 (1) The present and reasonably foreseeable future water needs of the
 22 source river basin are protected for the duration of the permit,
 23 including municipal, industrial, and agricultural water supply,
 24 wastewater assimilation, water quality, fish and wildlife habitat,
 25 hydroelectric power generation, navigation, recreation, emergency
 26 water needs, and any other significant factors.
- 27 (2) The benefits of the proposed transfer outweigh its potential
 28 detriments.
- 29 (3) Significant detrimental effects have been mitigated to the extent
 30 reasonably possible and all reasonable alternatives have been
 31 considered.
- 32 (4) The amount of water to be transferred and its proposed uses are
 33 both necessary and reasonable.
- 34 (5) The applicant, or any parent, subsidiary, or other affiliate of the
 35 applicant or parent is financially qualified to implement its
 36 responsibilities under the permit.
- 37 (6) The applicant, or any parent, subsidiary, or other affiliate of the
 38 applicant or parent has been in substantial compliance with other
 39 federal and state laws, regulations, and rules for the protection of
 40 the environment.

41 **"§ 143-215.22F. Commission's power as to permits; permit action.**

42 (a) The Commission may grant, deny, or issue with conditions a water transfer
 43 permit. The Commission may attach to a permit any conditions necessary to achieve
 44 the purposes of this Part, including the following:

- 1 (1) The amount of surface water approved for transfer may be varied
2 seasonally.
- 3 (2) The water transfer shall cease or decrease when the flow of the
4 source river, at a specified point, is less than a specified minimum
5 required to protect against adverse effects to the river basin.
- 6 (3) Special provisions may be included to promote an adequate water
7 supply for the State or to mitigate any future adverse conditions
8 resulting from the transfer.
- 9 (4) The installation, maintenance, and use of streamflow monitoring
10 equipment may be required.
- 11 (5) The establishment and reporting of transfer activities by the
12 permittee may be required.
- 13 (b) The permit shall specify the location of all collection, withdrawal, transmission,
14 and discharge facilities to be used or constructed to effect the water transfer and shall
15 specify the amount which can be withdrawn.
- 16 **§ 143-215.22G. Duration of permits; modification, suspension, or revocation of**
17 **permits; renewal of permits.**
- 18 (a) Except as provided in subdivisions (1) or (2) of this subsection, a water transfer
19 permit shall be issued for a period of 20 years.
- 20 (1) The Commission may issue a water transfer permit for a period
21 less than 20 years if requested by an applicant.
- 22 (2) The Commission may issue a water transfer permit for a period
23 greater than 20 years if deemed reasonable by the Commission
24 based upon a review of all relevant facts and circumstances
25 pertaining to the proposed water transfer. However, the period of
26 the permit may not exceed 40 years.
- 27 (b) The Commission may, for good cause shown, modify, suspend, or revoke any
28 water transfer permit, issued under G.S. 143-215.22F. This provision shall not apply
29 to water transfers authorized by G.S. 143-215.22I(b).
- 30 (c) A permit may be renewed following its expiration upon a full review of all
31 factors set out in G.S. 143-215.22E. Renewal water transfer permits are subject to the
32 term of years limitations applicable to water transfer permits. Permits may not be
33 transferred except with the approval of the Commission.
- 34 **§ 143-215.22H. Emergency permits.**
- 35 (a) The Governor may declare a water transfer emergency in response to a
36 substantial risk of a water supply failure caused by low lake levels or streamflows, or
37 in response to a water contamination or equipment failure emergency.
- 38 (b) Upon the issuance by the Governor of a declaration of a water transfer
39 emergency, the Commission may waive the usual permitting requirements and grant a
40 temporary emergency water transfer permit. The emergency water transfer permit
41 shall be limited to meet the needs created by the emergency and shall be issued for a
42 period no longer than 140 days or the duration of the Governor's declaration
43 whichever period is shorter.
- 44 **§ 143-215.22I. Registration of all water transfers; preexisting water transfers.**

1 (a) Any water transfer from one river basin to another shall be registered with the
2 Commission. A person registering a water transfer shall provide the Commission
3 with the following information:

- 4 (1) The maximum daily amount of the water transfer expressed in
5 gallons per day.
6 (2) The amount of water used or planned to be used and a description
7 of the water use or planned use.
8 (3) The location of the points of withdrawal and discharge of the
9 water transfer, and of the facilities used to make the transfer.

10 (b) Any water transfer listed below may continue without a permit under this Part
11 if the transfer is registered with the Commission within six months of the effective
12 date of this Part. However, if the water transfer exceeds the amount registered under
13 this section by one million gallons per day or more, the increase over the amount
14 registered must be reviewed and permitted in accordance with G.S. 143-215.22B. For
15 purposes of this subsection, 'named river' means any body of water bearing the
16 designation 'river' on the latest edition as of 18 July 1990 of the appropriate U.S.
17 Geological Survey 7.5 minute quadrangle map.

- 18 (1) The diversion of waters from the basin of one named river to
19 another where the actual diversion of waters lawfully began before
20 18 July 1990.
21 (2) The diversion of waters from the basin of one named river to
22 another if the diversion is authorized under a certificate or permit
23 issued before 18 July 1990 by the Environmental Management
24 Commission as provided by G.S. 153A-285 and G.S. 162A-7,
25 provided the diversion does not exceed the level authorized by the
26 certificate or permit as issued before 18 July 1990.
27 (3) The diversion of waters from the basin of one named river to
28 another if the diversion was included in the plans for a federal
29 reservoir project that received congressional approval before 18
30 July 1990 but was not constructed before that date.
31 (4) The diversion of waters from the basin of one named river to
32 another if the diversion was included in plans for a water
33 treatment facility and funds to construct the water treatment
34 facility were approved in a bond referendum held prior to 18 July
35 1990.
36 (5) The discharge of waters from the basin of one named river to
37 another if the discharge is authorized under a permit issued before
38 18 July 1990 by the Environmental Management Commission as
39 provided by G.S. 143-215.1. The amount of the discharge shall be
40 adjusted for infiltration.
41 (6) The diversion of waters from the basin of one named river to
42 another by a county that is situated on a ridge between two river
43 basins for which the feeder streams flow into free flowing rivers
44 rather than a reservoir if the diversion is included in plans to

1 construct a water treatment plant that is part of a joint project with
2 a water and sewer authority located in another state and a permit
3 for an interbasin transfer has been issued by the state in which the
4 water and sewer authority is located.

5 (c) In any event, a transfer authorized under this section must be reviewed under
6 the criteria of G.S. 143-215.22E upon the occurrence of any of the following
7 conditions:

8 (1) The cessation of the transfer for any reason for a continuous period
9 of three years after the transfer has been initiated.

10 (2) Following a period from the effective date of this Part no longer
11 than the longest of the following: (i) 20 years, or (ii) a period
12 found by the Commission to be reasonable based upon review of
13 all relevant facts and circumstances pertaining to the existing water
14 transfer, but the period may be not longer than 40 years.

15 "§ 143-215.22J. Permit and registration fees.

16 (a) Notwithstanding G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), the
17 Commission may charge fees for the following:

18 (1) Processing of an application for a permit under this Part.

19 (2) Providing notice of an application as required under G.S.
20 143-215.22D(a) and for providing notice of a public hearing as
21 required under G.S. 143-215.22D(c).

22 (3) Administering a permit issued under this Part including monitoring
23 compliance with the terms of the permit.

24 (4) Registering a water transfer under this Part.

25 (b) The Commission shall adopt a fee schedule in a rule following the procedures
26 established by the Administrative Procedure Act. The fee schedule shall be
27 established to reflect the staff costs involved, relative costs of the issuance of new
28 permits and the reissuance of existing permits, and shall include adequate safeguards
29 to prevent unusual fee assessments which would result in serious economic burden on
30 an individual applicant. In its rule making to establish fee schedules, the Commission
31 shall consider a method of rewarding facilities which achieve full compliance with
32 administrative and self-monitoring reporting requirements, and shall consider, in
33 those cases where the cost of renewal or amendment of a permit is less than for the
34 original permit, a lower fee for such renewal or amendment.

35 (c) Fees collected under this section shall be credited to the General Fund and
36 may be used to:

37 (1) Defray the expenses of any project or program, including
38 educational programs, supporting the application review and
39 compliance activities under this Part; and

40 (2) Establish additional permanent positions, subject to Chapter 126 of
41 the General Statutes, to conduct application review and
42 compliance activities under this Part.

43 "§ 143-215.22K. Actions for loss of water rights.

1 Nothing in this Part changes or modifies existing common or statutory law with
2 respect to the relative rights of riparian owners or others concerning the use of or
3 disposal of water in the streams of North Carolina. Failure to assert an objection to
4 the issuance of a permit for a water transfer shall not constitute a waiver of riparian
5 rights."

6 Sec. 2. G.S. 143-215.6A(a) reads as rewritten:

7 "(a) A civil penalty of not more than ten thousand dollars (\$10,000) may be
8 assessed by the Secretary against any person who:

- 9 (1) Violates any classification, standard, limitation, or management
10 practice established pursuant to G.S. 143-214.1, 143-214.2, or
11 143-215.
- 12 (2) Is required but fails to apply for or to secure a permit required by
13 G.S. 143-215.1, or who violates or fails to act in accordance with
14 the terms, conditions, or requirements of such permit.
- 15 (3) Violates or fails to act in accordance with the terms, conditions, or
16 requirements of any special order or other appropriate document
17 issued pursuant to G.S. 143-215.2.
- 18 (4) Fails to file, submit, or make available, as the case may be, any
19 documents, data, or reports required by this Article or G.S.
20 143-355(k) relating to water use information.
- 21 (5) Refuses access to the Commission or its duly designated
22 representative to any premises for the purpose of conducting a
23 lawful inspection provided for in this Article.
- 24 (6) Violates a rule of the Commission implementing this ~~Part~~ Part
25 Part 2A of this Article, or G.S. 143-355(k).
- 26 (7) Violates or fails to act in accordance with the statewide minimum
27 water supply watershed management requirements adopted
28 pursuant to G.S. 143-214.5, whether enforced by the Commission
29 or a local government.
- 30 (8) Violates the offenses set out in G.S. 143-215.6B.
- 31 (9) Is required but fails to apply for or to secure a permit required by
32 G.S. 143-215.22B or who violates or fails to act in accordance with
33 the terms, conditions, or requirements of such permit."

34 Sec. 3. G.S. 143-6B(f) reads as rewritten:

35 "(f) Any person who negligently violates any classification, standard or limitation
36 established pursuant to G.S. 143-214.1, 143-214.2, or 143-215; any term, condition, or
37 requirement of a permit issued pursuant to G.S. 143-215.1 or G.S. 143-215.22B or of
38 a special order or other appropriate document issued pursuant to G.S. 143-215.2; fails
39 to register a transfer of water as required by G.S. 143-215.22I; or any rule of the
40 Commission implementing any of the said sections, shall be guilty of a misdemeanor
41 punishable by a fine not to exceed fifteen thousand dollars (\$15,000) per day of
42 violation, provided that such fine shall not exceed a cumulative total of two hundred
43 thousand dollars (\$200,000) for each period of 30 days during which a violation
44 continues, or by imprisonment not to exceed six months, or by both."

1 Sec. 4. G.S. 153A-285 reads as rewritten:

2 "**§ 153A-285. Prerequisites to acquisition of water, water rights, etc.**

3 The word 'authority' as used in G.S. 162A-7(b) through (f) includes counties and
4 cities acting jointly or through joint agencies to provide water services or sewer
5 services or both. No county or city acting jointly and no joint agency may ~~divert~~
6 ~~water from one stream or river to another nor~~ institute any proceeding in the nature
7 of eminent domain to acquire water, water rights, or lands having water rights
8 attached thereto until the ~~diversion or~~ acquisition is authorized by a certificate from
9 the Environmental Management Commission pursuant to G.S. 162A-7. Any
10 proceeding to secure a certificate from the Environmental Management Commission
11 shall be governed by the provisions of G.S. 162A-7(b) through 162A-7(f)."

12 Sec. 5. G.S. 143B-282(2) reads as rewritten:

13 "(2) The Environmental Management Commission shall adopt rules:

- 14 a. For air quality standards, emission control standards and
15 classifications for air contaminant sources pursuant to G.S.
16 143-215.107;
- 17 b. For water quality standards and classifications pursuant to
18 G.S. 143-214.1 and G.S. 143-215;
- 19 c. To implement water and air quality reporting pursuant to
20 G.S. 143-215.68;
- 21 d. To be applied in capacity use areas pursuant to G.S.
22 143-215.14;
- 23 e. To implement the issuance of permits for water use within
24 capacity use areas pursuant to G.S. 143-215.20;
- 25 f. Repealed by Session Laws 1983, c. 222, s. 3, effective April
26 25, 1983;
- 27 g. For the protection of the land and the waters over which
28 this State has jurisdiction from pollution by oil, oil products
29 and oil by-products pursuant to Article 21A of Chapter 143.
- 30 h. Governing underground tanks used for the storage of
31 hazardous substances or oil pursuant to Article 21 or Article
32 21A of Chapter 143 of the General Statutes.
- 33 i. To implement the provisions of Part 2A of Article 21 of
34 Chapter 143 of the General Statutes."

35 Sec. 6. G.S. 153A-287 is repealed.

36 Sec. 7. This act becomes effective 1 July 1991.

APPENDIX D
LEGISLATIVE PROPOSAL I

**DRAFT
FOR REVIEW ONLY**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

D

92-LH-012

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Community Water System Fees.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO MAKE CHANGES TO THE COMMUNITY WATER SYSTEM PERMIT FEE.

3 The General Assembly of North Carolina enacts:

4 Section 1. G.S. 130A-328 reads as rewritten:

5 "§ 130A-328. Community water system operating permit and permit
6 fee.

7 (a) No person shall operate a community water system who has
8 not been issued an operating permit by the Department. A
9 community water system operating permit shall be valid ~~for one~~
10 ~~year from the date of issue~~ from January 1 through December 31 of
11 each year unless suspended or revoked by the Department for
12 cause. The Commission shall adopt rules concerning permit
13 issuance and renewal and permit suspension and revocation. The
14 Commission may prorate the annual fees set forth in subsection
15 (b) for permits obtained after January 1 of each year.

16 (b) The following fees are imposed for the issuance or renewal
17 of a permit to operate a community water system; the fees are
18 based on the number of persons served by the system:

19 Number of Persons Served	Fee
20 100 or fewer	\$150
21 More than 100 but no more than 500	\$175
22 More than 500 but no more than 3300	\$300
23 More than 3300 but no more than 5000	\$450
24 More than 5000 but no more than 10,000	\$550
25 More than 10,000 but no more than 50,000	\$650

1 More than 50,000

\$850

2 All fees collected under this section shall be credited to the
3 General Fund and shall be used, subject to appropriation by the
4 General Assembly to the Department, to defray the cost of
5 administering and enforcing this Article."

6 2. The Department may collect one-half of the total fee
7 for permits issued under G.S. 130A-328 from January 1, 1992
8 through December 31, 1992.

9 3. This act is effective upon ratification.

10

11

APPENDIX D

**EXPLANATION OF LEGISLATIVE PROPOSAL I:
A BILL TO BE ENTITLED AN ACT TO
MAKE CHANGES TO THE COMMUNITY WATER SYSTEM PERMIT FEE**

Legislative Proposal I amends G.S. 130A-328 to authorize the Department of Environment, Health, and Natural Resources to issue the annual community water system permits from January 1 to December 31 of each year, instead of from the date of issue.

In addition, the proposed bill authorizes the Environmental Management Commission to prorate the annual fee for community water system permits obtained after January 1 of each year.

The proposed bill also allows the Department to collect one half of the fee for permits issued for the period January 1 to December 31, 1992.

DRAFT FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1992

S/H

D

92-LH-013B

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Clean Water Bond Bill.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE ISSUANCE OF ONE HUNDRED MILLION DOLLARS
3 IN GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO A VOTE OF
4 THE QUALIFIED VOTERS OF THE STATE, TO PROVIDE FUNDS FOR THE
5 PURPOSE OF MAKING LOANS TO LOCAL GOVERNMENT UNITS FOR WATER
6 SUPPLY SYSTEMS, WASTEWATER COLLECTION SYSTEMS, OR WASTEWATER
7 TREATMENT WORKS.
8 The General Assembly of North Carolina enacts:
9 Section 1. Short title. This act shall be known and may
10 be cited as the "North Carolina Clean Water Bond Act of 1992".
11 Sec. 2. Findings and determinations. It is the intent
12 and purpose of the General Assembly by this act to provide for
13 the issuance of general obligation bonds of the State in order to
14 provide loans to local government units to assist in the
15 financing of the cost of improvements, enlargements, extensions,
16 and reconstruction of water supply systems, wastewater collection
17 systems and wastewater treatment works, and the construction of
18 new such systems and works. Loans shall be made only to those
19 local government units that are eligible for and that qualify for
20 loans from the Clean Water Revolving Loan and Grant Fund
21 established in Chapter 159G of the General Statutes.
22 Sec. 3. Definitions. As used in this act, unless the
23 context otherwise requires:
24 (1) "Bonds" means bonds issued under this act.

- 1 (2) "Clean Water Revolving Loan and Grant Fund" means
2 the Clean Water Revolving Loan and Grant Fund as
3 defined in the Clean Water Revolving Loan and Grant
4 Fund Act.
- 5 (3) "Clean Water Revolving Loan and Grant Fund Act"
6 means Chapter 796 of the 1987 Session Laws, as the
7 same may be amended from time to time, which, as
8 codified appears as Chapter 159G of the General
9 Statutes.
- 10 (4) "Cost" means without intending thereby to limit or
11 restrict any proper definition of such word in
12 financing the cost of facilities or purposes
13 authorized by this act:
- 14 a. The cost of constructing, reconstructing,
15 enlarging, acquiring and improving facilities,
16 and acquiring equipment and land therefor,
17 b. The cost of engineering, architectural and
18 other consulting services as may be required,
19 c. Administrative expenses and charges,
20 d. The cost of bond insurance, investment
21 contracts, credit enhancement and liquidity
22 facilities, interest-rate swap agreements,
23 financial and legal consultants and related
24 costs of bond and note issuance, to the extent
25 and as determined by the State Treasurer, and
26 e. Any other costs and expenses necessary or
27 incidental to the purposes of this act.
- 28 (5) "Credit facility" means an agreement entered into
29 by the State Treasurer on behalf of the State with
30 a bank, savings and loan association or other
31 banking institution, an insurance company,
32 reinsurance company, surety company or other
33 insurance institution, a corporation, investment
34 banking firm or other investment institution, or
35 any financial institution or other similar provider
36 of a credit facility, which provider may be located
37 within or without the United States of America,
38 such agreement providing for prompt payment of all
39 or any part of the principal or purchase price
40 (whether at maturity, presentment or tender for
41 purchase, redemption or acceleration), redemption
42 premium, if any, and interest on any bonds or notes
43 payable on demand or tender by the owner, in
44 consideration of the State agreeing to repay the

- 1 provider of the credit facility in accordance with
2 the terms and provisions of such agreement.
- 3 (6) "Local government units" means local government
4 units as defined in the Clean Water Revolving Loan
5 and Grant Fund Act.
- 6 (7) "Notes" means notes issued under this act.
- 7 (8) "Par formula" means any provision or formula
8 adopted by the State to provide for the adjustment,
9 from time to time, of the interest rate or rates
10 borne by any bonds or notes, including:
- 11 a. A provision providing for such adjustment so
12 that the purchase price of such bonds or notes
13 in the open market would be as close to par as
14 possible,
- 15 b. A provision providing for such adjustment
16 based upon a percentage or percentages of a
17 prime rate or base rate, which percentage or
18 percentages may vary or be applied for
19 different periods of time, or
- 20 c. Such other provision as the State Treasurer
21 may determine to be consistent with this act
22 and will not materially and adversely affect
23 the financial position of the State and the
24 marketing of bonds or notes at a reasonable
25 interest cost to the State.
- 26 (9) "State" means the State of North Carolina.
- 27 (10) "Water supply systems" means water supply systems
28 as defined in the Clean Water Revolving Loan and
29 Grant Act.
- 30 (11) "Wastewater collection systems" means wastewater
31 collection systems as defined in the Clean Water
32 Revolving Loan and Grant Act.
- 33 (12) "Wastewater treatment works" means wastewater
34 treatment works as defined in the Clean Water
35 Revolving Loan and Grant Act
- 36 (13) "Water Pollution Control Revolving Fund" means the
37 fund described by G.S. 159G-4(a) and G.S.
38 159G-5(c).
- 39 Sec. 4. Authorization of bonds and notes. Subject to a
40 favorable vote of a majority of the qualified voters of the State
41 who vote on the question of issuing clean water bonds in the
42 election called and held as hereinafter provided, the State
43 Treasurer is hereby authorized, by and with the consent of the
44 Council of State, to issue and sell, at one time or from time to

1 time, general obligation bonds of the State to be designated
2 "State of North Carolina Clean Water Bonds", with such additional
3 designations as may be determined to indicate the issuance of
4 bonds from time to time, or notes of the State as herein
5 provided, in an aggregate principal amount not exceeding one
6 hundred million dollars (\$100,000,000) for the purpose of
7 providing funds, with any other available funds, for the purposes
8 authorized in this act.

9 **Sec. 5. Use and allocation of bond and note proceeds.**

10 The proceeds of bonds and notes shall be used and
11 allocated for loans to local government units for the same
12 purposes for which funds in the Clean Water Revolving Loan and
13 Grant Fund may be used. Repayment of the loans shall be used to
14 pay the debt service of the bonds and notes issued. The loans
15 shall be made for the purpose of paying the cost of water supply
16 systems, wastewater collection systems and wastewater treatment
17 works. The proceeds may be used to make loans directly to local
18 government units qualifying for a loan from the Clean Water
19 Revolving Loan and Grant Fund or used in such other manner as
20 shall effectuate the purposes of this act. The proceeds of bonds
21 and notes shall be allocated between wastewater and water supply
22 purposes in the same percentages as established in G.S. 159G-4,
23 except that no allocation shall be made as a State match of any
24 federal funds deposited into the Water Pollution Control
25 Revolving Fund.

26 Loans requiring the use of proceeds of the sale of bonds
27 or bond anticipation notes shall not be made in an aggregate
28 amount exceeding twenty-five million dollars (\$25,000,000) in the
29 first fiscal year, beginning July 1, 1993, or in an aggregate
30 amount exceeding fifty million dollars (\$50,000,000) in the first
31 two fiscal years, or in an aggregate amount exceeding seventy-
32 five million dollars (\$75,000,000) in the first three fiscal
33 years, or in an aggregate amount exceeding one hundred million
34 dollars (\$100,000,000) in the first four fiscal years.

35 The proceeds of bonds and notes, including premium
36 thereon, if any, except the proceeds of bonds the issuance of
37 which has been anticipated by bond anticipation notes or the
38 proceeds of refunding bonds or notes, shall be placed by the
39 State Treasurer in a special fund to be designated the "State
40 Clean Water Bond Fund", which may include such appropriate
41 special accounts therein as may be determined by the State
42 Treasurer, and shall be disbursed as provided in this act.

43 **Sec. 6. Allocation of proceeds of bonds and notes.**

1 The proceeds of the bonds and notes in the State Clean
2 Water Bond Fund shall be allocated and expended as provided in
3 this act.

4 Any additional moneys which may be received by means of
5 a grant or grants from the United States of America or any agency
6 or department thereof or from any other source for deposit to the
7 State Clean Water Bond Fund may be placed in the State Clean
8 Water Bond Fund or in a separate account or fund and shall be
9 disbursed, to the extent permitted by the terms of such grant or
10 grants, without regard to any limitations imposed by this act.

11 The proceeds of bonds and notes may be used with any
12 other moneys made available by the General Assembly for making
13 loans authorized by this act, including the proceeds of any other
14 State bond issues, whether heretofore made available or which may
15 be made available at the session of the General Assembly at which
16 this act is ratified or any subsequent sessions. The proceeds of
17 bonds and notes shall be expended and disbursed under the
18 direction and supervision of the Director of the Budget. The
19 funds provided by this act shall be disbursed for the purposes
20 provided in this act upon warrants drawn on the State Treasurer
21 by the State Comptroller, which warrants shall not be drawn until
22 requisition has been approved by the Director of the Budget and
23 which requisition shall be approved only after full compliance
24 with the Executive Budget Act, Article 1 of Chapter 143 of the
25 General Statutes, as it may be amended from time to time.

26 Sec. 7. Election. The question of the issuance of the
27 one hundred million dollar (\$100,000,000) North Carolina Clean
28 Water Bonds shall be submitted to the qualified voters of the
29 State at an election to be held on Tuesday, November 3, 1992.
30 Any other primary, election or referendum validly called or
31 scheduled by law at the time the election on the bond question
32 provided for in this section is held may be held as called or
33 scheduled. Notice of the election on the bond question shall be
34 given by publication twice in a newspaper or newspapers having
35 general circulation in each county in the State, and the election
36 and the registration of voters therefor shall be held under and
37 in accordance with the general laws of the State. Absentee
38 ballots shall be authorized in the election.

39 The State Board of Elections shall reimburse the
40 counties of the State for all necessary expenses incurred in
41 holding the election which are in addition to those which would
42 have otherwise been incurred, the same to be paid out of the
43 Contingency and Emergency Fund or other funds available to the
44 State Board of Elections.

1 Voting machines may be used in accordance with the rules
2 and regulations prescribed by the State Board of Elections. The
3 State Board of Elections may also cause to be printed and
4 distributed, to the extent necessary, ballots for use in the
5 election. The bond question to be used in the voting machines
6 and any ballots shall be in substantially the following form:

7 "[] FOR the issuance of one hundred million dollars
8 (\$100,000,000) State of North Carolina Clean Water
9 Bonds constituting general obligation bonds of the
10 State secured by a pledge of the faith and credit
11 and taxing power of the State for the purpose of
12 providing funds, with any other available funds to
13 make loans to assist local government units in
14 paying the cost of clean water projects.

15
16 [] AGAINST the issuance of one hundred million dollars
17 (\$100,000,000) State of North Carolina Clean Water
18 Bonds constituting general obligation bonds of the
19 State secured by a pledge of the faith and credit
20 and taxing power of the State for the purpose of
21 providing funds, with any other available funds, to
22 make loans to assist local government units in
23 paying the cost of clean water projects."

24 If a majority of those voting on the bond question in
25 the election shall vote in favor of the issuance of the bonds,
26 such bonds may be issued as herein provided. If a majority of
27 those voting on the bond question in the election shall vote
28 against the issuance of the bonds, such bonds shall not be
29 issued.

30 The results of the election shall be canvassed and
31 declared as provided by law for the holding of elections for
32 State officers and the results thereof certified by the State
33 Board of Elections to the Secretary of State, in the manner and
34 at the time provided by the general election laws of the State.

35 Sec. 8. Issuance of bonds and notes.

36 (a) Terms and conditions. Bonds or notes may bear such
37 date or dates, may be serial or term bonds or notes, or any
38 combination thereof, may mature in such amounts and at such time
39 or times, not exceeding 40 years from their date or dates, may be
40 payable at such place or places, either within or without the
41 United States of America, in such coin or currency of the United
42 States of America as at the time of payment is legal tender for
43 payment of public and private debts, may bear interest at such
44 rate or rates, which may vary from time to time, and may be made

1 redeemable before maturity, at the option of the State or
2 otherwise as may be provided by the State, at such price or
3 prices, including a price less than the face amount of the bonds
4 or notes, and under such terms and conditions, all as may be
5 determined by the State Treasurer, by and with the consent of the
6 Council of State.

7 (b) Signatures; form and denomination; registration.
8 Bonds or notes may be issued as certificated or uncertificated
9 obligations. If issued as certificated obligations, bonds or
10 notes shall be signed on behalf of the State by the Governor or
11 shall bear his facsimile signature, shall be signed by the State
12 Treasurer or shall bear his facsimile signature, and shall bear
13 the Great Seal of the State or a facsimile thereof shall be
14 impressed or imprinted thereon. If bonds or notes bear the
15 facsimile signatures of the Governor and the State Treasurer, the
16 bonds or notes shall also bear a manual signature which may be
17 that of a bond registrar, trustee, paying agent or designated
18 assistant of the State Treasurer. Should any officer whose
19 signature or facsimile signature appears on bonds or notes cease
20 to be such officer before the delivery of the bonds or notes, the
21 signature or facsimile signature shall nevertheless have the same
22 validity for all purposes as if the officer had remained in
23 office until delivery and bonds or notes may bear the facsimile
24 signatures of persons who at the actual time of the execution of
25 the bonds or notes shall be the proper officers to sign any bond
26 or note although at the date of the bond or note such persons may
27 not have been such officers. The form and denomination of bonds
28 or notes, including the provisions with respect to registration
29 of the bonds or notes and any system for their registration,
30 shall be as the State Treasurer may determine in conformity with
31 this act; provided, however, that nothing in this act shall
32 prohibit the State Treasurer from proceeding, with respect to the
33 issuance and form of the bonds or notes, under the provisions of
34 Chapter 159E of the General Statutes, the Registered Public
35 Obligations Act, as said Chapter may be amended from time to
36 time, as well as under this act.

37 (c) Manner of sale; expenses. Subject to determination
38 by the Council of State as to the manner in which bonds or notes
39 shall be offered for sale, whether at public or private sale,
40 whether within or without the United States of America and
41 whether by publishing notices in certain newspapers and financial
42 journals, mailing notices, inviting bids by correspondence,
43 negotiating contracts of purchase or otherwise, the State
44 Treasurer is authorized to sell bonds or notes at one time or

1 from time to time at such rate or rates of interest, which may
2 vary from time to time, and at such price or prices, including a
3 price less than the face amount of the bonds or notes, as the
4 State Treasurer may determine. All expenses incurred in the
5 preparation, sale and issuance of bonds or notes shall be paid by
6 the State Treasurer from the proceeds of bonds or notes or other
7 available moneys.

8 (d) Notes; repayment.

9 (1) By and with the consent of the Council of State,
10 the State Treasurer is hereby authorized to borrow
11 money and to execute and issue notes of the State
12 for the same, but only in the following
13 circumstances and under the following conditions:

14 a. For anticipating the sale of bonds to the
15 issuance of which the Council of State shall
16 have given consent, if the State Treasurer
17 shall deem it advisable to postpone the
18 issuance of the bonds;

19 b. For the payment of interest on or any
20 installment of principal of any bonds then
21 outstanding, if there shall not be sufficient
22 funds in the State treasury with which to pay
23 the interest or installment of principal as
24 they respectively become due;

25 c. For the renewal of any loan evidenced by notes
26 herein authorized;

27 d. For the purposes authorized in this act; and

28 e. For refunding bonds or notes as herein
29 authorized.

30 (2) Funds derived from the sale of bonds or notes may
31 be used in the payment of any bond anticipation
32 notes issued under this act. Funds provided by the
33 General Assembly for the payment of interest on or
34 principal of bonds shall be used in paying the
35 interest on or principal of any notes and any
36 renewals thereof, the proceeds of which shall have
37 been used in paying interest on or principal of the
38 bonds.

39 (e) Refunding bonds and notes. By and with the consent
40 of the Council of State, the State Treasurer is authorized to
41 issue and sell refunding bonds and notes pursuant to the
42 provisions of the State Refunding Bond Act for the purpose of
43 refunding bonds or notes issued pursuant to this act. The

1 refunding bonds and notes may be combined with any other issues
2 of State bonds and notes similarly secured.

3 (f) Tax exemption. Bonds and notes and their transfer
4 (including any profit made on the sale thereof) shall be exempt
5 from all State, county and municipal taxation or assessment,
6 direct or indirect, general or special, whether imposed for the
7 purpose of general revenue or otherwise, excluding inheritance
8 and gift taxes. The interest on bonds and notes shall not be
9 subject to taxation as to income, nor shall the bonds and notes
10 be subject to taxation when constituting a part of the surplus of
11 any bank, trust company, or other corporation.

12 (g) Investment eligibility. Bonds and notes are hereby
13 made securities in which all public officers, agencies and public
14 bodies of the State and its political subdivisions, all insurance
15 companies, trust companies, investment companies, banks, savings
16 banks, savings and loan associations, credit unions, pension or
17 retirement funds, other financial institutions engaged in
18 business in the State, executors, administrators, trustees and
19 other fiduciaries may properly and legally invest funds,
20 including capital in their control or belonging to them. Bonds
21 and notes are hereby made securities which may properly and
22 legally be deposited with and received by any officer or agency
23 of the State or political subdivision of the State for any
24 purpose for which the deposit of bonds, notes or obligations of
25 the State or any political subdivision is now or may hereafter be
26 authorized by law.

27 (h) Faith and credit. The faith and credit and taxing
28 power of the State are hereby pledged for the payment of the
29 principal of and the interest on bonds and notes.

30 Sec. 9. Variable interest rates. In fixing the details
31 of bonds and notes, the State Treasurer may provide that any of
32 the bonds or notes may:

33 (1) Be made payable from time to time on demand or
34 tender for purchase by the owner thereof provided a
35 credit facility supports the bonds or notes, unless
36 the State Treasurer specifically determines that a
37 credit facility is not required upon a finding and
38 determination by the State Treasurer that the
39 absence of a credit facility will not materially
40 and adversely affect the financial position of the
41 State and the marketing of the bonds or notes at a
42 reasonable interest cost to the State;

43 (2) Be additionally supported by a credit facility;

- 1 (3) Be made subject to redemption or a mandatory tender
2 for purchase prior to maturity;
- 3 (4) Bear interest at a rate or rates that may vary for
4 such period or periods of time, all as may be
5 provided in the proceedings providing for the
6 issuance of the bonds or notes, including, without
7 limitation, such variations as may be permitted
8 pursuant to a par formula; and
- 9 (5) Be made the subject of a remarketing agreement
10 whereby an attempt is made to remarket bonds or
11 notes to new purchasers prior to their presentment
12 for payment to the provider of the credit facility
13 or to the State.

14 If the aggregate principal amount repayable by the State
15 under a credit facility is in excess of the aggregate principal
16 amount of bonds or notes secured by the credit facility, whether
17 as a result of the inclusion in the credit facility of a
18 provision for the payment of interest for a limited period of
19 time or the payment of a redemption premium or for any other
20 reason, then the amount of authorized but unissued bonds or notes
21 during the term of such credit facility shall not be less than
22 the amount of such excess, unless the payment of such excess is
23 otherwise provided for by agreement of the State executed by the
24 State Treasurer.

25 Sec. 10. Interpretation of act.

26 (a) Additional method. The foregoing sections of this
27 act shall be deemed to provide an additional and alternative
28 method for the doing of the things authorized thereby and shall
29 be regarded as supplemental and additional to powers conferred by
30 other laws, and shall not be regarded as in derogation of any
31 powers now existing.

32 (b) Statutory references. References in this act to
33 specific sections or Chapters of the General Statutes or to
34 specific Acts are intended to be references to such sections,
35 Chapters, or Acts as they may be amended from time to time by the
36 General Assembly.

37 (c) Liberal construction. This act, being necessary for
38 the health and welfare of the people of the State, shall be
39 liberally construed to effect the purposes thereof.

40 (d) Inconsistent provisions. Insofar as the provisions
41 of this act are inconsistent with the provisions of any general
42 laws, or parts thereof, the provisions of this act shall be
43 controlling.

1 (e) Severability. If any provision of this act or the
2 application thereof to any person or circumstance is held
3 invalid, such invalidity shall not affect other provisions or
4 applications of the act which can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this act are declared to be severable.

7 Sec. 11. Effective date. This act is effective upon
8 ratification.

APPENDIX E

**EXPLANATION OF LEGISLATIVE PROPOSAL II:
A BILL TO BE ENTITLED AN ACT TO AUTHORIZE
THE ISSUANCE OF ONE HUNDRED MILLION DOLLARS IN
GENERAL OBLIGATION BONDS OF THE STATE, SUBJECT TO
A VOTE OF THE QUALIFIED VOTERS OF THE STATE,
TO PROVIDE FUNDS FOR THE PURPOSE OF MAKING LOANS TO LOCAL
GOVERNMENT UNITS FOR WATER SUPPLY SYSTEMS, WASTEWATER
COLLECTION SYSTEMS, OR WASTEWATER TREATMENT WORKS.**

This bill authorizes a referendum to be held on Tuesday, November 3, 1992, on the question of whether to issue one hundred million dollars (\$100,000,000) of State general obligation bonds for clean water projects. If the bond issue is approved by the voters, bonds in an aggregate principal amount of one hundred million dollars (\$100,000,000) may be issued. However, the bill limits the monetary amount that may be made in loans requiring the use of bond proceeds as follows:

- \$25,000,000 in the first fiscal year (1993);
- \$50,000,000 in the first two fiscal years (1993-94);
- \$75,000,000 in the first three fiscal years (1993-95);
- \$100,000,000 in the first four fiscal years (1993-96).

The bond proceeds are to be placed in the newly created State Clean Water Bond Fund and, with the exception of providing State matching funds required to obtain federal wastewater assistance funds, are to be used for the same purposes for which funds in the Clean Water Revolving Loan and Grant Fund may be used. Those purposes generally are to provide low interest funding to local government units for the construction of wastewater treatment works, wastewater collection systems, and water supply systems and for certain emergency purposes. The allocation of funds accruing to the State Clean Water Bond Fund is to be the same as that set out in G.S. 159G-4, except that no allocation of funds is made as a State match of any federal funds deposited into the Water Pollution Control Revolving Fund. Repayment of the loans is to be used to service the debt incurred by the State for the general obligation bonds.

DRAFT FOR REVIEW ONLY

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S/H

D

92-LH-014

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Well/Pump Contractors License Act. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT WELL CONTRACTORS AND PUMP CONTRACTORS BE
3 LICENSED AND TO ESTABLISH A WELL AND PUMP CONTRACTORS EXAMINERS
4 BOARD.
5 The General Assembly of North Carolina enacts:
6 Section 1. Chapter 87 of the General Statutes is
7 amended by adding a new article to read:
8 "Article 9.
9 "Well and Pump Contractors
10 "§ 87-120. Short Title.
11 (a) This Article may be cited as the 'Well and Pump
12 Contractors Licensing Act.'
13 (b) Purpose and Policy--The General Assembly has determined
14 that underground water is a precious resource belonging to all
15 the people of the State. The use of underground water is a
16 proper subject for statutory control for the protection of
17 present and future generations of the population. The State's
18 environment, its commercial and industrial development, and the
19 health and welfare of its citizens are directly related to and
20 dependent upon the quality and quantity of its aquifers. The
21 protection of underground waters from pollution and abuse
22 requires that all persons engaged in the business of drilling and
23 pump contracting so as to afford access to underground water
24 supplies be required to exhibit special experience and expertise
25 as evidenced by a uniform statewide license.

1 "§ 87-121. Definitions.

2 The following definitions apply in this Article:

- 3 (1) 'Board' - The Board of Well and Pump Contractors
4 created by this Article.
- 5 (2) 'Department' - The Department of Environment,
6 Health, and Natural Resources.
- 7 (3) 'Drill' - All acts necessary to the construction of
8 a well with power equipment.
- 9 (4) 'Groundwater' - The water of underground streams,
10 channels, artesian basins, reservoirs, lakes, and
11 other water under the surface of the ground,
12 whether percolating or otherwise.
- 13 (5) 'Person' - Any natural person, partnership,
14 association, trust, and public or private
15 corporation.
- 16 (6) 'Pump' - Any powered device for extracting water,
17 oil, gas, or reclamation fluids from any well.
- 18 (7) 'Pump Contractor' - Any person who contracts or
19 engages in the business of installation,
20 replacement or repair of any pump or well seal
21 which results in breaking or opening the well seal
22 of a water supply well excluding environmental
23 monitoring wells and recovery wells, or any pump
24 related activity that has the potential to
25 contaminate the water source.
- 26 (8) 'Well' - A hole in the ground used for any of the
27 following: (i) to explore for, obtain, or monitor
28 groundwater, (ii) to inject or withdraw water into
29 or from any underground formation from which water
30 may be produced, or (iii) to transfer heat to or
31 from the ground or groundwater. The term also
32 includes a remedial well.
- 33 (9) 'Well contractor' - Any person who contracts to
34 machine drill, alter or repair any well.
- 35 (10) 'Well drilling rig or equipment' - The power
36 machinery used in drilling a well. This includes
37 any equipment that has the potential to contaminate
38 groundwater and is used to obtain groundwater.
- 39 (11) 'Well seal' - An approved arrangement or device
40 used to cap a well or to establish and maintain a
41 junction between the casing or curbing of a well
42 and the piping or equipment installed therein, the
43 purpose or function of which is to prevent

1 pollutants from entering the well at the upper
2 terminal.

3 **"§ 87-122. Persons exempted from Article.**

4 This article shall not apply to a person who performs labor or
5 services for a licensed well contractor in connection with the
6 drilling of a well or who repairs or installs pumps at the
7 direction and under the personal supervision of a licensed well
8 or pump contractor.

9 **"§ 87-123. Licensure required for well and pump contractors.**

10 After January 1, 1993, no person shall engage in any of the
11 following activities, unless that person has a valid license as
12 provided by this Article: (i) drill a well, or (ii) install or
13 service water well pumps, water pumps, well pumping units,
14 pressure tanks and systems open to underground water.

15 **"§ 87-124. Board of Well Contractor Examiners; creation;**
16 **composition; appointment and terms of members; vacancies.**

17 (a) There is created a State Board of Well and Pump Contractor
18 Examiners. The Board shall consist of seven members appointed by
19 the Governor as follows:

20 (1) Four registered well or pump contractors who drill
21 in consolidated or unconsolidated formations,
22 recommended by the North Carolina Groundwater
23 Association to the Governor. One of these members
24 shall be a pump contractor and one of these members
25 shall drill monitoring wells.

26 (2) Two members of the Department. One member shall
27 represent the Groundwater Section of the Department
28 and one member shall represent the Environmental
29 Health Division of the Department.

30 (3) One representative of the public at large, who
31 shall not be a well or pump contractor, or an
32 employee of any State department.

33 (b) After the establishment of the initial Board, those persons
34 who are well or pump contractors appointed to the Board shall be
35 licensed under the provisions of this Article.

36 (c) Except as provided in subsection (d), each member shall be
37 appointed to a four year term to begin on February 1 and end on
38 January 31. There shall be no successive terms. A former
39 member of the Board shall wait for a period of four years before
40 being eligible for re-appointment to the Board.

41 (d) Of the members initially appointed, one of the well or pump
42 contractors shall serve a term of one year. The public member
43 and the second well or pump contractor shall serve a term of two
44 years. The representative from the Groundwater Section of the

1 Department and the third well or pump contractor shall serve a
2 term of three years. The representative from the Environmental
3 Health Division of the Department and the fourth well or pump
4 contractor shall serve a term of four years.

5 (e) Any vacancy shall be filled in the same manner as the
6 original appointment. An appointee shall serve the remainder of
7 the unexpired term and until his or her successor has been
8 appointed and qualified.

9 (f) Each member of the Board shall be a resident of the State.

10 **"§ 87-125. Compensation and expenses of Board members;**
11 **employment and compensation of personnel; expenses of**
12 **administration not to exceed income; no liability of State.**

13 (a) A Board member shall receive compensation for the
14 performance of duties required by this Article and reasonable
15 travel expenses as provided by G.S. 93B-5.

16 (b) The Board may employ necessary personnel for the
17 performance of its functions, and may fix the compensation of
18 that personnel within the limits of funds available to the Board.

19 (c) The total expense of the administration of this Article
20 shall not exceed the total income from fees collected pursuant to
21 this Article. No salary, expense, or other obligations of the
22 Board shall be charged against the General Fund of the State.
23 Neither the Board nor any officer or employee of the Board shall
24 have any power or authority to make or incur any expense, debt,
25 or other financial obligation binding upon the State of North
26 Carolina.

27 **"§ 87-126. Organization and meetings of the Board; quorum; rules**
28 **and regulations; seal; administration of oaths; membership by**
29 **public employees.**

30 (a) The Board shall annually elect a chair from among its
31 membership. The Board shall meet annually in the City of
32 Raleigh, at a time set by the Board. The Board may hold
33 additional meetings and conduct business at any place in the
34 State.

35 (b) Five members of the Board shall constitute a quorum to
36 transact business. The Board may designate any member to conduct
37 any proceeding, hearing, or investigation necessary to its
38 purpose, but any final action shall require a quorum of the
39 Board.

40 (c) The Board may adopt rules to implement this Article,
41 provided that no rule shall change, modify, or supersede any
42 rules adopted under Article 7 of Chapter 87 of the General
43 Statutes.

1 (d) The Board shall have an official seal. Any member may
2 administer an oath in the taking of testimony upon any matter
3 pertaining to the functions of the Board. Membership on the
4 Board by a public employee shall not constitute dual office
5 holding.

6 **"§ 87-127. Issuance of licenses; qualification of applicants,
7 examinations; failure to pass examination.**

8 (a) Any person who desires to be licensed as a well or pump
9 contractor pursuant to this Chapter shall:

- 10 (1) Submit an application on a form approved by the
11 Board.
- 12 (2) Be a resident of North Carolina.
- 13 (3) Be 21 years of age or older.
- 14 (4) Pass an examination given by the Board.

15 (b) The examination required by subsection (a) of this section
16 shall be in the manner and form as the Board in the exercise of
17 its discretion may determine, including examinations prepared and
18 graded under contracts. Appropriately different examinations
19 shall be given for well contractors and pump contractors.
20 Examinations shall be written unless the Board determines that
21 there are extraordinary circumstances that in the interest of
22 fairness make an oral examination appropriate. The examination
23 for applicants shall be offered at least twice annually at a time
24 and place to be determined by the Board.

25 (c) When the Board has determined that an applicant has met all
26 the qualifications for licensure, and has submitted the required
27 fee, the Board shall issue a license to the applicant.

28 **"§ 87-128. Licensing of contractor working on January 1, 1993.**

29 Within three months after January 1, 1993, a resident of North
30 Carolina who has actively and continuously performed the
31 functions of a well or pump contractor for a five year period
32 prior to January 1, 1993, may submit an application under oath to
33 the Board, with an application fee, requesting that they be
34 licensed as a well or pump contractor without an examination.
35 The purpose of this section is to permit 'grandfathering' only of
36 those applicants who are residents of North Carolina and who have
37 performed the functions and acquired the experience over a period
38 of five full years prior to January 1, 1993, deemed satisfactory
39 by the Board. The Board may request the documentation it deems
40 necessary in evaluating such requests.

41 **"§ 87-129. Expiration of licenses; renewal without examination.**

42 A license issued under this Article shall be an annual license
43 and shall expire on January 31. A license may be renewed for an
44 ensuing license year without examination by submitting a renewal

1 application to the Board and paying the prescribed fee at least
 2 30 days prior to the expiration date of the current license. The
 3 renewal application shall extend the period of validity of the
 4 current license until a new license is issued or denied under the
 5 provisions of this Article.

6 **"§ 87-130. Fees.**

7 Fees shall be determined by the Board, but shall not exceed the
 8 amounts specified in this section. A fee shall be paid to the
 9 Board at the time an application is made:

10 For original license.....\$125.00

11 For renewal license, annually 125.00

12 For examination under this Article..... 75.00

13 Fees shall not be prorated for licenses issued after January 1
 14 of any year. Licensees shall be penalized twenty-five dollars
 15 (\$25.00) for renewals postmarked after December 31st.

16 **"§ 87-131. Display of license.**

17 The licensee shall conspicuously display his or her license at
 18 the licensee's principal place of business.

19 **"§ 87-132. Grounds for refusal, suspension or revocation of
 20 license.**

21 The Board may refuse to issue or renew, or may suspend or
 22 revoke, a license on any one or more of the following grounds:

23 (1) Material misstatement in the application for
 24 license;

25 (2) Willful disregard or violation of this Article or
 26 of any rule or regulation promulgated by the Board
 27 pursuant thereto; or of any law of the State of
 28 North Carolina relating to wells;

29 (3) Conviction of any crime, an essential element of
 30 which is misstatement of fact, fraud or dishonesty,
 31 or conviction of any felony.

32 **"§ 87-133. Procedure when Board refuses to examine applicant or
 33 revokes or suspends license.**

34 The procedure to be followed by the Board when it contemplates
 35 refusing to allow an applicant to take an examination, or to
 36 revoke or suspend a license issued under the provisions of this
 37 Article, shall be in accordance with the provisions of Chapter
 38 150B of the General Statutes of North Carolina.

39 **"§ 87-134. Violation a misdemeanor; injunction to prevent
 40 violation.**

41 Any violation of this Article, shall be a misdemeanor. The
 42 Board may apply to any judge of the Superior Court for an
 43 injunction to prevent any violation or threatened violation of
 44 the provisions of this Article."

1 Sec. 2. This act is effective upon ratification.

APPENDIX F

EXPLANATION OF LEGISLATIVE PROPOSAL III: A BILL TO BE ENTITLED AN ACT TO REQUIRE THAT WELL CONTRACTORS AND PUMP CONTRACTORS BE LICENSED AND TO ESTABLISH A WELL AND PUMP CONTRACTORS EXAMINERS BOARD.

This legislative proposal adds the Well and Pump Contractors Licensing Act as a new Article 9 to Chapter 87 of the General Statutes. The proposal requires well and pump contractors to be licensed after January 1, 1993, but does not apply to individuals working under the supervision of a licensed well or pump contractor.

The legislative proposal creates a seven member Board of Well and Pump Contractor Examiners. Members are appointed by the Governor for four year terms. The membership is composed of four well or pump contractors, two employees of the Department of Environment, Health, and Natural Resources, and one member at large. The legislative proposal provides for compensation and expenses of Board members and personnel. Total expenses may not exceed income collected from license fees.

An applicant for a license must be a North Carolina resident who is 21 years of age or older, pass an examination given by the Board, and pay the examination and licensing fees. A license is valid for one year. The legislative proposal also provides that the Board may license without examination any North Carolina resident who has actively and continuously engaged in the well or pump contracting profession for a five year period of time prior to January 1, 1993, provided that person can present evidence satisfactory to the Board regarding his or her professional credentials.

The legislative proposal establishes maximum fees for licenses and makes the violation of any provision of the act a misdemeanor.