

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 89

Short Title: DENR Support for Regional Water Supply System. (Public)

Sponsors: Representatives McGrady, Samuelson, and McElraft (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Environment.

February 12, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THE DEPARTMENT OF ENVIRONMENT AND NATURAL
3 RESOURCES TO SUPPORT THE APPLICATION OF A REGIONAL WATER SUPPLY
4 SYSTEM FOR ALL REQUIRED FEDERAL APPROVALS, AS RECOMMENDED BY
5 THE ENVIRONMENTAL REVIEW COMMISSION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143-355.7 reads as rewritten:

8 **"§ 143-355.7. Water supply development; State-local cooperation.**

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

- 13 (1) Are economically and practically feasible.
- 14 (2) Make maximum, practical beneficial use of reclaimed wastewater and
15 stormwater.
- 16 (3) Comply with water quality classifications and standards.
- 17 (4) Avoid or mitigate impacts to threatened or endangered species to the extent
18 such species are protected by State or federal law.
- 19 (5) Maintain downstream flows necessary to protect downstream users.
- 20 (6) Do not have significant adverse impacts on other water withdrawals or
21 wastewater discharges.
- 22 (7) Avoid or mitigate water quality impacts consistent with the requirements of
23 rules adopted by the Environmental Management Commission to implement
24 33 U.S.C. § 1341.

25 (b) During the alternatives analysis, the Department shall request relevant information
26 regarding the potential alternatives, including the establishment or expansion of the water
27 supply reservoir or other water supply resources, from other State agencies with jurisdiction
28 over any natural resources that will be impacted under the potential alternatives identified by
29 the Department. Unless the local government agrees to an extension of time, the Department
30 shall determine the preferred alternative within two years of the execution of a contract with the
31 requesting local government for the costs of the analysis.

32 (b1) The determination of the preferred alternative shall be binding on all State agencies
33 unless the Department determines from its further evaluation during its review of any State or
34 federal permit applications for the project that another preferred alternative should be selected
35 in light of additional information brought forward during the permit reviews. The Department



1 shall provide its full support and favorable endorsement of any State or federal permit
2 applications for the preferred alternative when all of the following conditions are met:

3 (1) The regional water supply system has acquired or will acquire the property
4 necessary for construction of the water supply reservoir or other water
5 supply resource.

6 (2) The local water supply plan shows that the regional water supply system has
7 implemented appropriate conservation measures similar in effect to the
8 measures in comparably sized North Carolina regional water supply systems.

9 (3) The regional water supply system has developed and is implementing
10 measures to replace existing leaking infrastructure that is similar in effect to
11 the measures being implemented by comparably sized North Carolina
12 regional water systems.

13 (4) The regional water supply system has entered into a contractual agreement
14 to pay the expenses incurred by the Department under this section.

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

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

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

32 ~~(1) The regional water supply system has acquired or will acquire the property~~
33 ~~necessary for construction of the water supply reservoir or other water~~
34 ~~supply resource.~~

35 ~~(2) The local water supply plan shows that the regional water supply system has~~
36 ~~implemented appropriate conservation measures similar in effect to the~~
37 ~~measures in comparably sized North Carolina regional water supply systems.~~

38 ~~(3) The regional water supply system has developed and is implementing~~
39 ~~measures to replace existing leaking infrastructure that is similar in effect to~~
40 ~~the measures being implemented by comparably sized North Carolina~~
41 ~~regional water systems.~~

42 ~~(4) The regional water supply system has entered into a contractual agreement~~
43 ~~to pay the expenses incurred by the Department as a co-applicant for the~~
44 ~~project approval.~~

45 (f) Nothing in this section shall be construed to limit the authority of the Department to
46 require environmental permits or to apply and enforce environmental standards pursuant to
47 State law."

48 **SECTION 2.** This act is effective when it becomes law.