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**SENATE DRS75101-SB-16A (02/13)**

**Short Title:** Protect Landowners' Water Rights. **(Public)**

Sponsors: Senators Jackson, Cook, and Rabin (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

**AN ACT TO ENHANCE THE PROTECTION OF LANDOWNERS' WATER RIGHTS.**

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 38 of Chapter 143 of the General Statutes is amended by adding a new section to read:

## **"§ 143-350.1. Declaration of policy.**

The following principles constitute the water resources policy of the State. In rendering administrative and judicial determinations regarding water use, the State and any political subdivision of the State shall be governed by these principles.

- (1) Water resources protected. – Access to and the ability to use water resources is critical in preserving North Carolina's rich heritage as a societal, economic, environmental, educational, and cultural leader. Protection of these resources is a priority of the State.
  - (2) Protection of water will include voluntary initiatives. – The State will utilize a combination of regulatory and voluntary programs to ensure the protection of water resources and the preservation of landowners' water rights. Recognizing certain authority of the State to regulate water use in Articles 21 and 38 of Chapter 143 of the General Statutes, the intent of the State is to limit the exercise of such authority in favor of working with landowners and water users to encourage voluntary solutions to reduce water use.
  - (3) Encourage conservation and efficiency. – The State will examine, promote, and implement programs that provide incentives for water users to conserve water and increase water use efficiency.
  - (4) Encourage increased storage capacity. – The State will examine and seek to eliminate regulatory impediments to increased development of water resources and storage structures, including wells, ponds, reservoirs, and other impoundments.
  - (5) Encourage reuse. – The State will encourage the adoption of programs that facilitate the increased use of reclaimed water and recycled water and will subject any statutes or rules that could possibly interfere with the increased use of reclaimed water and recycled water to a heightened standard of necessity and urgency.
  - (6) Recognize roles of landowners. – The State will promote practices, projects, and programs that encourage landowners to conserve and protect water resources.



1                   (7) Preservation of landowners' water rights. – In carrying out its duty to protect  
2                   water resources, the State shall first identify incentives, voluntary programs,  
3                   and other nonregulatory initiatives prior to exercising its regulatory authority  
4                   under Articles 21 and 38 of Chapter 143 of the General Statutes."

5                   **SECTION 2.** G.S. 143-215.22 reads as rewritten:

6                   **"§ 143-215.22. Law of riparian rights not changed.**

7                   (a) Nothing contained in this Part shall change or modify existing common or statutory  
8 law with respect to the relative rights of riparian owners concerning the use of surface water in  
9 this State.

10                  (b) Except for the authority granted to the Governor, the Department, or the  
11 Commission under Articles 21 and 38 of Chapter 143 of the General Statutes, the Commission  
12 under Part 4 of Article 7 of Chapter 143B of the General Statutes, and the Commission for  
13 Public Health under Article 10 of Chapter 130A of the General Statutes, neither the State nor  
14 any political subdivision of the State shall adopt rules or ordinances to limit a landowner from  
15 withdrawing and using water as otherwise allowed under the common or statutory law of the  
16 State from any of the following:

- 17                  (1) An impoundment constructed by or owned by the landowner.  
18                  (2) Wells constructed on the landowner's property.  
19                  (3) Other sources of water on the landowner's property, including, but not  
20                  limited to, captured stormwater, springs, and artesian wells.

21                  (c) Nothing in this section shall be construed to limit the enforcement of State or local  
22 laws designed to limit the use or installation of wells for withdrawals in areas with groundwater  
23 contamination or to limit the enforcement of State water quality standards."

24                  **SECTION 3.** G.S. 143-355.3 is amended by adding a new subsection to read:

25                  (f) Nothing in this section shall limit a landowner from withdrawing water for use in  
26 agricultural activities, as described in G.S. 106-581.1, when the water is withdrawn from any of  
27 the following:

- 28                  (1) An impoundment constructed by or owned by the landowner.  
29                  (2) Wells constructed on the landowner's property.  
30                  (3) Other sources of water on the landowner's property, including, but not  
31                  limited to, captured stormwater, springs, and artesian wells."

32                  **SECTION 4.** This act is effective when it becomes law.