

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1203

Short Title: State-Local Water Quality Plans.

(Public)

Sponsors: Representatives Insko and Wilkins (Cosponsors); Hackney, Luebke, and Mosley.

Referred to: Environment, if favorable, Appropriations.

May 5, 1997

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH A FRAMEWORK FOR DEVELOPING AND
3 IMPLEMENTING COOPERATIVE STATE-LOCAL WATER RESOURCES
4 MANAGEMENT AND WATER QUALITY PROTECTION PLANS AND
5 IMPLEMENTATION STRATEGIES FOR RIVER BASINS AND SEGMENTS OF
6 RIVER BASINS AND TO APPROPRIATE FUNDS TO THE UPPER NEUSE
7 RIVER BASIN ASSOCIATION, INC., FOR THE PURPOSE OF DEVELOPING
8 AND IMPLEMENTING A COOPERATIVE STATE-LOCAL WATER
9 RESOURCES MANAGEMENT AND WATER QUALITY PROTECTION PLAN
10 FOR THE UPPER NEUSE RIVER BASIN.

11 The General Assembly of North Carolina enacts:

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

14 "**§ 143-214.14. Cooperative State-local river basin plans and strategies.**

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

- 1 (1) Water quality conditions and sources of water contamination vary from
2 one river basin or sub-basin to another and within different segments of
3 river basins and sub-basins.
- 4 (2) Some local governments and local areas have demonstrated greater
5 capacity than others to protect and improve water quality conditions.
- 6 (3) In some but not all areas of the State artificial alteration of watercourses,
7 such as by surface water impoundments, may significantly affect water
8 quality conditions.
- 9 (4) Imposition of standard basinwide water quality protection requirements
10 and strategies may not in all cases equitably address the varying
11 conditions and needs of all areas.
- 12 (5) Based on the findings set forth in this subsection there is a need to
13 develop distinct approaches for addressing water quality planning and
14 management in the several river basins, sub-basins, and river segments
15 of the State, drawing upon the resources of local governments as well as
16 State government, under the supervision and coordination of the
17 Commission.

18 It is the goal of the General Assembly that, to the extent practicable, the State shall
19 adopt water quality protection plans and strategies that are developed and implemented in
20 cooperation and coordination with local governments and that the State shall adopt water
21 quality protection requirements that are proportional to the relative contributions of
22 pollution from sources, in terms of both loading and proximity.

23 Furthermore, it is the goal of the General Assembly to encourage and support State-
24 local partnerships for improved water quality protection and water resource management,
25 through the provision of technical and financial assistance available under programs such
26 as the Clean Water Management Trust Fund, the Wetland Restoration Fund, water quality
27 planning and project grant programs, the State's revolving loan and grant programs for
28 water and wastewater facilities, and future appropriations.

29 The Commission shall implement these goals in accordance with the standards,
30 procedures and requirements set forth in this section.

31 (b) Definitions. The following definitions apply in this section:

- 32 (1) Basin, sub-basin or segment (thereof) - A river basin, or a segment of a
33 river basin or sub-basin combined with one or more tributary sub-
34 basins.
- 35 (2) Coalition plan - A water quality protection plan proposed by a coalition
36 of local governments through its nonprofit corporation for a river basin,
37 sub-basin, or segment of a river basin or sub-basin, and approved by the
38 governing board of each local government that is a member of the
39 coalition.
- 40 (3) Local governments - The term includes cities, counties, special districts
41 and authorities and other political subdivisions of the State.
- 42 (4) River basin - Any of the river basins enumerated in G.S. 143-215.22G.

1 (5) Sub-basin - The land and water area that drains into a river, stream or
2 surface water that is tributary to a river enumerated in G.S. 143-
3 215.22G.

4 (6) Water quality protection - The term includes related water use and water
5 quantity management measures as well as measures that directly address
6 water quality protection.

7 (c) The Commission may, as an alternative method of attaining water quality
8 standards in a river basin, sub-basin, or segment, approve water quality plans proposed by
9 coalitions of local governments whose territorial areas collectively include the affected
10 basins, sub-basins, or segments in the manner provided by this section. The Commission
11 may approve a plan submitted by a coalition whose territorial area or plan does not
12 include a small portion of an affected basin, sub-basin, or segment that, in the
13 Commission's judgment, does not materially affect water quality. The Commission may
14 approve a coalition plan only if the Commission first determines that:

15 (1) The basin, sub-basin, or segment under consideration is, in the
16 Commission's judgment, an appropriate unit for water quality planning;

17 (2) The action strategy set forth in the plan meets the requirements of
18 subsection (c) of this section;

19 (3) The coalition of local governments meets the requirements of subsection
20 (e) of this section; and

21 (4) The plan when implemented, in the Commission's judgment, will
22 provide a viable alternative method of attaining substantial compliance
23 with water quality standards in the affected basin, sub-basin, or
24 segment.

25 (d) Any plan proposed by a coalition of local governments shall present an action
26 strategy that includes all of the following:

27 (1) An assessment of water quality and related water quantity management
28 in the affected river basin, sub-basin, or segment.

29 (2) A description of the goals and objectives for protection and
30 improvement of water quality and related water quantity management in
31 the affected river basin, sub-basin, or segment.

32 (3) A workplan that describes proposed water quality protection strategies,
33 including point and nonpoint source programs, for achieving the
34 specified goals and objectives, and an implementation strategy including
35 specified tasks, timetables for action, implementation responsibilities of
36 State and local agencies, and sources of funding, where applicable.

37 (4) A description of the performance indicators and benchmarks that will be
38 used to measure progress in achieving the specified goals and
39 objectives, and in associated monitoring framework.

40 (e) Any proposed coalition plan shall cover a three-year future period and shall be
41 presented to the Commission no later than 180 days after the effective date of this
42 section. The plan may provide for phasing into execution of specific strategies, tasks, or
43 mechanisms by specified dates within this three-year period. The Commission may enter

1 into a memorandum of understanding with any coalition of local governments that
2 modifies the 180-day deadline or the three-year period referred to in this section, or both,
3 if these time frames in the Commission's judgment are impracticable. The Commission
4 may approve one or more successive coalition plan periods proposed by a coalition of
5 local governments through its nonprofit corporation. The plan may provide for strategies
6 tailored for use within the region that vary from one sub-area or jurisdiction to another,
7 depending upon baseline water quality characteristics and the degree of water quality
8 impairment.

9 (f) Before presenting a proposed plan to the Commission, the coalition shall
10 incorporate a formal organization by filing for incorporation as a nonprofit organization
11 with the Secretary of State, and shall present to the Commission a certificate of existence
12 as a nonprofit corporation.

13 (g) If the Commission determines that a jurisdiction participating in a water
14 quality coalition is not making good faith progress toward attaining a desired water
15 quality outcome, the Commission may do either or both of the following:

16 (1) Revoke or temporarily suspend its approval of participation in the
17 coalition plan by that jurisdiction.

18 (2) Revoke or temporarily suspend the Commission's approval of a
19 coalition plan if the Commission finds that the failure of good faith
20 progress means that the coalition plan no longer will provide a viable
21 alternative method of attaining substantial compliance with water
22 quality standards, within the meaning of subdivision (b)(4) of this
23 section.

24 (h) The Commission may approve one or more amendments to a coalition plan
25 proposed by a coalition through its nonprofit corporation with the approval of the
26 governing board of each local government that is a member of the coalition.

27 (i) With the approval of the Commission any water quality coalition whose plan is
28 approved by the Commission pursuant to subsection (b) of this section may do either or
29 both of the following:

30 (1) Establish and implement a pollutant trading program for specific
31 pollutants to achieve pollution control levels (such as nitrogen, as
32 illustrated in the revised Neuse River Basin nutrient sensitive waters
33 strategy as proposed by the Commission and published in the North
34 Carolina Register, August 15, 1996, at 15 NCAC 2B.0231 through
35 .0236).

36 (2) Undertake pollutant trading between and among point source discharges
37 and nonpoint pollution sources.

38 (j) The Commission shall submit to the Environmental Review Commission
39 progress reports concerning the implementation of the cooperative State-local approach
40 contemplated by this section by December 1998, and at two-year intervals thereafter.

41 (k) The Commission may adopt temporary rules to implement the provisions of
42 this section."

1 Section 2. (a) There is appropriated from the General Fund to the Upper Neuse River
2 Basin Association, Inc., the sum of three hundred thousand dollars (\$300,000) for the
3 1997-98 fiscal year for the purpose of starting development of a cooperative and
4 comprehensive State-local water resources management and water quality protection plan
5 for the Upper Neuse River Basin.

6 (b) The plan shall include the following:

7 (1) An assessment of the water quality and related water quantity
8 management in the Upper Neuse River Basin.

9 (2) A description of the goals and objectives for protection and
10 improvement of water quality and related water quantity management in
11 the Upper Neuse River Basin.

12 (3) A workplan that describes proposed water quality protection strategies,
13 including point and nonpoint source programs, for achieving the
14 specified goals and objectives, and an implementation strategy including
15 specified tasks, timetables for action, implementation responsibilities of
16 State and local agencies, and sources of funding, where applicable.

17 (4) A description of the performance indicators and benchmarks will be
18 used to measure progress in achieving the specified goals and
19 objectives, and the associated monitoring framework.

20 (5) A proposed timetable for review, refinement, and renewal of the
21 strategy.

22 (c) The Department of Environment, Health, and Natural Resources and other
23 appropriate State agencies shall provide technical assistance to the Upper Neuse River
24 Basin Association, Inc., during the development of the Association's plan. The
25 Association shall actively solicit the input and assistance of the agencies during the
26 identification of goals and objectives, development of performance indicators and
27 benchmarks, and preparation of the plan.

28 (d) For the purposes of this section "Upper Neuse River Basin" means all of the
29 watershed area that drains that part of the Neuse River Basin and its tributary streams that
30 are located above, or terminate at the Falls Lake Reservoir dam. The Upper Neuse River
31 Basin is approximately 770 square miles in area and comprises all or part of six counties
32 and eight municipalities. It comprises about thirteen percent (13%) of the entire Neuse
33 River Basin.

34 Section 3. The funds appropriated under this act are not anticipated to be
35 adequate for the actual implementation of all or part of the recommendations included in
36 the final plan. The Upper Neuse River Basin Association, Inc., and its member
37 governments shall be responsible for working with State and federal agencies, and private
38 and nonprofit organizations and individuals to obtain funding support for implementation
39 of the plan.

40 Section 4. The Upper Neuse River Basin Association, Inc., shall submit a
41 report on all of its activities and programs to the Environmental Review Commission on
42 or before March 1 of each fiscal year, through completion of the final plan. The report
43 shall include information on the Association's activities and accomplishments during the

1 current fiscal year, itemized expenditures for development of the plan, major planned
2 activities and accomplishments for at least the next 12 months, and anticipated
3 expenditures with sources of funding for the next 12 months.

4 Section 5. Sections 1 and 4 of this act become effective 120 days after it
5 becomes law. The remainder of this act becomes effective July 1, 1997.