

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1299 (Third Edition)

SHORT TITLE: Interbasin Transfer Amendments

SPONSOR(S): Senators Cochrane; Albertson, Carpenter, East, Horton, Kinnaird, Martin of Pitt, Odom, and Phillips

FISCAL IMPACT

	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 1998-99</u>	<u>FY 1999-00</u>	<u>FY 2000-01</u>	<u>FY 2001-02</u>	<u>FY 2002-03</u>
Division of Water Resources - Receipts	-	\$15,000	\$500	\$500	\$500

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Environment and Natural Resources; Division of Water Resources

EFFECTIVE DATE: Section 3 of the bill is effective March 1, 2000. All other sections are effective October 1, 1998.

BILL SUMMARY: S 1299. INTERBASIN TRANSFER AMENDMENTS (=H 1473). TO AMEND THE LAWS REGARDING THE WITHDRAWAL AND TRANSFER OF SURFACE WATERS AND THE STATE WATER SUPPLY PLAN. Amends GS 143-211 to declare state policy that cumulative impact of transfers from source river basin not degrade water quality of that basin or diminish its assimilative capacity. Amends GS 143-215.8B to require Environmental Management Commission (EMC), in developing basinwide water quality plans, to consider cumulative impacts of all transfers into and out of basin. Amends GS 143-215.22H, which requires registration of water basin withdrawals or transfers, to reduce from 1 million gallons per day to 100,000 gallons per day the threshold for registering. Amends GS 143-215.22I (regulating surface water transfers) to: (1) require EMC, in determining whether to issue certificate for transfer, to consider local water supply plans in source major river basin and use them to evaluate projected future municipal water needs in that basin; (2) require environmental assessment under GS 113A-8.1 (which is enacted by this bill) for any petition for certificate under that section; (3) require any certificate under GS 113-8.1 to include drought management plan; and (4) direct any applicant with certificate, when transfers equal 80% of maximum allowed under certificate, to submit to Department of Environment and Natural Resources

(DENR) plan stating how applicant intends to address future foreseeable water needs, and to require implementation of plan when transfers equal 90% of maximum. Amends GS 143-355(l) to require that local government water supply plans include current and anticipated reliance on surface water transfers; requires such plans by Jan. 1, 1999. Directs DENR to develop state water supply plan by Jan. 1, 2000. Effective October 1, 1998. ¹

SENATE AGRICULTURE/ENVIRONMENT/NATURAL RESOURCES COMMITTEE SUBSTITUTE:

The Senate committee substitute makes the following changes to 1st edition. (1) Adds to statement of state's public policy, in GS 143-211(b) and 143-215.22I(m), that cumulative impact of transfers from source river basin must not result in violation of antidegradation policy set out in 40 CFR sec. 131.12 and the statewide antidegradation policy adopted pursuant to that federal policy. (2) Amends GS 143-215.8B(a) to require EMC, in developing water quality management plans for major river basins in state, to consider impacts of all transfers into and from a river basin that must be registered under GS 143-215.22H. (3) Adds GS 143-215.22H(b1) to exempt from specified registration requirements person who withdraws or transfers less than 1 million gallons per day of water for activities related to agriculture. (4) Adds GS 143-215.22I(f)(2a) to add, as factor that EMC must consider in deciding whether to issue a certificate for a water transfer, the cumulative effect on the river basin of any water transfer or use that is already occurring, is authorized under GS 143-215.11I, or is projected in any local water supply plan submitted to DENR. Revises proposed GS 143-215.22I(f1) to make clear that applicant who petitions EMC for water transfer certificate must pay the cost of special studies necessary to comply with GS Chapter 113A, Article 1 (Environmental Policy Act provisions concerning assessments of environmental impacts). Rewrites proposed GS 143-215.22I(l) to provide that if applicant must submit plan regarding future water needs to DENR and applicant must have local water supply plan, then plan submitted to DENR must be amendment to local water supply plan required by GS 143-355(l). (5) Requires that DENR, in its state water supply plan, identify any areas of state that face water shortages, conflicts among water users, or depletion of water resources; and that it review plan every five years thereafter to determine whether any other areas are facing such problems within 10 years from date of review. (6) Makes amendments to GS 143-215.22H (registration of water withdrawals and transfers) effective March 1, 2000. Requires that person who must register withdrawal or transfer as result of amendments to GS 143-215.22H provide information required by subsection (a) of that statute on basis of water withdrawn or transferred during 1999. Other provisions of act are effective Oct. 1, 1998. ²

HOUSE ENVIRONMENT COMMITTEE SUBSTITUTE:

The House committee substitute makes technical changes only. ³

ASSUMPTIONS AND METHODOLOGY:

Current law requires water withdrawals and transfers from the State's surface or groundwaters of 1,000,000 gallons per day (gpd) or more to be registered with the Environmental Management Commission. The Division of Water Resources employs an Engineer I who spends 25% of his

¹ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Vol. 1998, May 25, 1998

² *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Vol. 1998, August 10, 1998

³ *Daily Bulletin*, Institute of Government, UNC-Chapel Hill, Vol. 1998, August 20, 1998

time managing approximately 380 registered withdrawals for both farming and non-farming operations. Farming operations include crop irrigation, fish farming, and animal farming; non-farming operations include public water systems, industries, and golf courses. There is a \$50 one time registration fee for water withdrawals for non-farming operations. Farming operations are exempted by law from this fee, but are still required to submit registrations to the department. Applicants who update their water withdrawal/transfer registration are not required to submit additional registration fees, but are subject to late fees pursuant to G.S. 143-215.22H(e).

As currently written, Senate Bill 1299 proposes to change the registration threshold requirement for water basin withdrawals and transfers from 1,000,000 gallons per day (gpd) to 100,000 gpd. The Division of Water Resources estimates that lowering the threshold could potentially add over 2,300 new water users, both farming (2,000) and non-farming (300) to the registration directory. The bill further adds language to G.S. 143-215.22H(a)(3) to exempt farming-related activities that withdraw or transfer less than 1,000,000 gpd of water from registration requirements.

The estimated 300 non-farming operations would begin registration March 1 of FY 1999-2000. These operations would provide a maximum of \$15,000 in revenues to offset any new costs associated with registration requirements (300 non-farming operations X \$50 registration fee) in the first year, assuming that all new non-farming operations register between March 1 and June 30 of 2000. Any operation that initiates new transfers or withdrawals of 100,000 gpd or more must register within six months of initiating a withdrawal or transfer. It is anticipated that in each subsequent fiscal year, an additional 10 non-farming registrations will come on line, providing \$500 in revenues (10 registrations X \$50 registration fee).

Additional Changes

Under the proposed changes to G.S. 143-215.22I, applicants who petition the Environmental Management Commission for a certificate to transfer water from one river basin to another must pay the costs of an environmental assessment. The changes proposed under this section conform to current departmental practices. DENR utilizes existing resources to cover the costs associated with environmental assessments, and asks certificate petitioners to cover costs incurred for major studies. The cost would vary from applicant to applicant depending upon the technical nature of the study required.

TECHNICAL CONSIDERATIONS: None

SOURCES OF INFORMATION: Department of Environment and Natural Resources, Division of Water Resources

FISCAL RESEARCH DIVISION 733-4910

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