

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE BILL 101

Short Title: Interconnection of Public Water Systems. (Public)

Sponsors: Senator Hartsell.

Referred to: Agriculture/Environment/Natural Resources.

February 11, 2009

A BILL TO BE ENTITLED

1 AN ACT REQUIRING THE INTERCONNECTION OF PUBLIC WATER SYSTEMS OR
2 WASTEWATER SYSTEMS TO REGIONAL SYSTEMS WHEN NECESSARY TO
3 PROMOTE PUBLIC HEALTH, PROTECT THE ENVIRONMENT, AND ENSURE
4 COMPLIANCE WITH DRINKING WATER RULES AND TO REQUIRE THAT AN
5 ANALYSIS OF REASONABLE ALTERNATIVES BE DONE BEFORE
6 CONSTRUCTING OR ALTERING A PUBLIC WATER SYSTEM.
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 130A-317(c) reads as rewritten:

10 "(c) No person or unit of local government shall begin construction or alteration of a
11 public water system or award a contract for construction or alteration unless all of the following
12 conditions are met:

- 13 (1) The plans for construction or alteration have been prepared by an engineer
14 licensed by this State.
- 15 (2) The Department has determined that the system, as constructed or altered,
16 will be capable of compliance with the drinking water rules.
- 17 (3) The Department has determined that the system is capable of interconnection
18 at an appropriate time with an expanding municipal, ~~county~~-county, or
19 regional ~~system~~ system; the Department may require interconnection with a
20 municipal, county, or regional system within a county, or between or among
21 counties if approved by the board of commissioners of each county, if
22 necessary to promote the public health, protect the environment, or ensure
23 compliance with drinking water rules.
- 24 (3a) The Department has determined that an analysis was done, including a
25 financial analysis, of the reasonable alternatives to the proposed construction
26 or alteration of the public water system and that the analysis indicates that
27 the proposed construction or alteration is appropriate.
- 28 (4) The Department has determined that adequate arrangements have been made
29 for the continued operation, service and maintenance of the public water
30 system.
- 31 (5) The Department has approved the plans and specifications."

32 **SECTION 2.** G.S. 130A-317(d)(6) reads as rewritten:

33 "(d) Municipalities, counties, local boards or commissions, water and sewer authorities,
34 or groups of municipalities and counties may establish and administer within their utility
35 service areas their own approval program in lieu of State approval of water system plans
36 required in subsection (c) of this section for construction or alteration of the distribution system
37 of a proposed or existing public water system, subject to the prior certification of the



1 Department. For purposes of this subsection, the service area of a municipality shall include
2 only that area within the corporate limits of the municipality and that area outside a
3 municipality in its extraterritorial jurisdiction where water service is already being provided to
4 the permit applicant by the municipality or connection to the municipal water system is
5 immediately available to the applicant; the service areas of counties and the other entities or
6 groups shall include only those areas where water service is already being provided to the
7 applicant by the permitting authority or connection to the permitting authority's system is
8 immediately available. No later than the 180th day after the receipt of an approval program and
9 statement submitted by any local government, commission, authority, or board, the Department
10 shall certify any local program that meets all of the following conditions:

11 ...

- 12 (6) Provides that the system is capable of interconnection at an appropriate time
13 with an expanding municipal, county, or regional ~~system~~ system and
14 requires interconnection with a municipal, county, or regional system when
15 the Department determines interconnection is necessary to promote the
16 public health, protect the environment, or ensure compliance with drinking
17 water rules.

18"

19 **SECTION 3.** G.S. 143-215.1(b)(4) reads as rewritten:

20 "(4) The Commission shall have the power:

- 21 a. To grant a permit with such conditions attached as the Commission
22 believes necessary to achieve the purposes of this Article.
- 23 b. To require that an applicant satisfy the Department that the applicant,
24 or any parent, subsidiary, or other affiliate of the applicant or parent:
- 25 1. Is financially qualified to carry out the activity for which the
26 permit is required under subsection (a) of this section; and
 - 27 2. Has substantially complied with the effluent standards and
28 limitations and waste management treatment practices
29 applicable to any activity in which the applicant has
30 previously engaged, and has been in substantial compliance
31 with other federal and state laws, regulations, and rules for
32 the protection of the environment.
 - 33 3. As used in this subdivision, the words "affiliate," "parent,"
34 and "subsidiary" have the same meaning as in 17 Code of
35 Federal Regulations § 240.12b-2 (April 1, 1990, Edition).
 - 36 4. For a privately owned treatment works that serves 15 or more
37 service connections or that regularly serves 25 or more
38 individuals, financial qualification may be demonstrated
39 through the use of a letter of credit, insurance, surety, trust
40 agreement, financial test, bond, or a guarantee by corporate
41 parents or third parties who can pass the financial test. No
42 permit shall be issued under this section for a privately owned
43 treatment works that serves 15 or more service connections or
44 that regularly serves 25 or more individuals, until financial
45 qualification is established and the issuance of the permit
46 shall be contingent on the continuance of the financial
47 qualification for the duration of the activity for which the
48 permit was issued.
- 49 c. To modify or revoke any permit upon not less than 60 days' written
50 notice to any person affected.

- 1 d. To designate certain classes of minor activities for which a general
2 permit may be issued, after considering:
3 1. The environmental impact of the activities;
4 2. How often the activities are carried out;
5 3. The need for individual permit oversight; and
6 4. The need for public review and comment on individual
7 permits.
- 8 e. To designate certain classes of minor activities for which:
9 1. Performance conditions may be established by rule; and
10 2. Individual or general permits are not required.
- 11 f. To require connection to a municipal, county, or regional wastewater
12 system if necessary to promote public health, protect the
13 environment, or ensure compliance with water quality rules."

14 **SECTION 4.** G.S. 143-215.1(b) is amended by adding two new subdivisions to

15 read:

- 16 "(6) No permit for a new or expanded municipal waste treatment system or
17 nonmunicipal waste treatment system (human waste only) shall be issued,
18 unless the applicant:
- 19 a. Has adopted a plan to implement a program to reduce demand and
20 manage existing capacity by reducing or eliminating stormwater and
21 groundwater infiltration and intrusion into collection lines;
22 b. Has performed and submits an analysis, including a financial
23 analysis, of reasonable alternatives to the proposed new or expanded
24 waste treatment system, including the consideration of discharging to
25 created wetlands and the beneficial reuse of treated wastewater for
26 nondrinking water purposes; and
27 c. Can demonstrate that the proposed new or expanded waste treatment
28 facility will be planned, designed, and constructed to facilitate or
29 accommodate eventual interconnection with adjoining systems or
30 regional waste treatment systems.
- 31 (7) In deciding whether to grant a permit application under subdivision (6) of
32 this subsection, the Commission may consider whether the applicant is
33 making adequate progress in the implementation of sub-subdivision a. of
34 subdivision (6) of this subsection and may consider whether the applicant
35 could feasibly choose an alternative under sub-subdivision b. of subdivision
36 (6) of this subsection that will provide better protection for water quality."

37 **SECTION 5.** G.S. 143-215.1(f) reads as rewritten:

38 "(f) Local Permit Programs for Sewer Extension and Reclaimed Water Utilization. –
39 Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of
40 municipalities and counties may establish and administer within their utility service areas their
41 own general permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and
42 (8) above, for construction, operation, alteration, extension, change of proposed or existing
43 sewer system, subject to the prior certification of the Commission. For purposes of this
44 subsection, the service area of a municipality shall include only that area within the corporate
45 limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction
46 where sewer service or a reclaimed water utilization system is already being provided by the
47 municipality to the permit applicant or connection to the municipal sewer system or a reclaimed
48 water utilization system is immediately available to the applicant; the service areas of counties
49 and the other entities or groups shall include only those areas where sewer service or a
50 reclaimed water utilization system is already being provided to the applicant by the permitting
51 authority or connection to the permitting authority's system is immediately available. No later

1 than the 180th day after the receipt of a program and statement submitted by any local
2 government, commission, authority, or board the Commission shall certify any local program
3 that does all of the following:

- 4 (1) Provides by ordinance or local law for requirements compatible with those
5 imposed by this Part and the rules implementing this Part.
- 6 (2) Provides that the Department receives notice and a copy of each application
7 for a permit and that it receives copies of approved permits and plans upon
8 request by the Commission.
- 9 (3) Provides that plans and specifications for all construction, extensions,
10 alterations, and changes be prepared by or under the direct supervision of an
11 engineer licensed to practice in this State.
- 12 (4) Provides for the adequate enforcement of the program requirements by
13 appropriate administrative and judicial process.
- 14 (5) Provides for the adequate administrative organization, engineering staff,
15 financial and other resources necessary to effectively carry out its plan
16 review program.
- 17 (6) Provides that the system is capable of interconnection at an appropriate time
18 with an expanding municipal, county, or regional ~~system~~ system and
19 requires interconnection with a municipal, county, or regional system when
20 the Department determines interconnection is necessary to promote the
21 public health, protect the environment, or ensure compliance with water
22 quality rules.
- 23 (6a) Provides that an analysis, including a financial analysis, of the reasonable
24 alternatives to any proposed construction or alteration of a public sewer
25 system must be done and that the analysis must demonstrate that the
26 proposed construction or alteration is appropriate.
- 27 (7) Provides for the adequate arrangement for the continued operation, service,
28 and maintenance of the sewer or a reclaimed water utilization system.
- 29 (8) Is approved by the Commission as adequate to meet the requirements of this
30 Part and the rules implementing this Part."

31 **SECTION 6.** The Commission for Health Services shall adopt rules to implement
32 G.S. 130A-317, as amended by Sections 1 and 2 of this act, by October 1, 2009. The
33 Environmental Management Commission shall adopt rules to implement G.S. 143-215.1, as
34 amended by Sections 3, 4, and 5 of this act, by October 1, 2009. Notwithstanding
35 G.S. 150B-21.1(a)(2), this act shall not be construed to authorize the adoption of temporary
36 rules.

37 **SECTION 7.** This act is effective when it becomes law.