

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

H

1

HOUSE BILL 609

Short Title: Promote Water Supply Development. (Public)

Sponsors: Representatives McGrady, Stam, Gillespie, and Carney (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Environment.

April 5, 2011

A BILL TO BE ENTITLED
AN ACT TO PROMOTE THE DEVELOPMENT OF WATER SUPPLY RESERVOIRS AND
OTHER WATER SUPPLY RESOURCES.

Whereas, S.L. 2007-518 directed the Environmental Review Commission to study the allocation of surface water resources and their availability and maintenance in the State; and

Whereas, pursuant to this directive, the Environmental Review Commission commissioned a study and report on water allocation issues and policy options; and

Whereas, the resulting water allocation report included a recommendation that the State create an expedited regulatory process for the construction of new water supply reservoirs; and

Whereas, the resulting water allocation report found that certain areas of the State, including the piedmont, are expected to experience significant population growth over the next 30 years and do not have adequate water supplies to support the expected growth; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-352 reads as rewritten:

"§ 143-352. **Purpose and construction of Article.**

(a) The purpose of this Article is to create a State agency to coordinate the State's water resource activities; to devise plans and policies and to perform the research and administrative functions necessary for a more beneficial use of the water resources of the State, in order to insure improvements in the methods of conserving, developing and using those resources. A further purpose of this Article is to provide direction to the Department as it implements the authority reserved to the State by Congress in 33 U.S.C. § 1251(g) to allocate quantities of water within the jurisdiction of the State. In its allocation of water resources among essential users, the Department shall provide, to the maximum extent legally permissible, for the long-term needs identified in local water supply plans.

(b) For the welfare of the State and its citizens, this Article shall be liberally construed to effect its purposes as stated in this section and throughout the Article."

SECTION 2. G.S. 143-355(b) is amended by adding a new subdivision to read:

"(b) Functions to Be Performed. – The Department shall:

...

(16) Cooperate with units of local government in the identification of water supply needs and appropriate water supply sources and water storage projects to meet those needs. By agreement with a unit of local government, the Department may do any of the following:



- a. Assist in the assessment of alternatives for meeting water supply needs; the conduct of engineering studies, hydraulic computations, and hydrographic surveys; and the development of a plan of study for purposes of obtaining necessary permits.
- b. For budget and planning purposes, develop estimates of the costs of the proposed new water supply project.
- c. Apply for State and federal permits for the development of regional water supplies.

(17) Be the principal State agency to cooperate with other State agencies, the United States Army Corps of Engineers, and all other federal agencies or instrumentalities in the planning and development of water supply sources and water storage projects for the State."

SECTION 3. Chapter 143 of the General Statutes is amended by adding two new sections to read:

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

(a) It is the public policy of the State to ensure that there are adequate water resources to satisfy the demand created by future population growth and the economic development needs of the State. To this end, water supply shall be given high priority as an essential water use, and the State shall cooperate with local governments to identify potential water supply sources and plan for construction of water supply storage to satisfy the long-term water supply needs identified in local water supply plans developed pursuant to G.S. 143-355.

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

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

(c) The Department shall give priority to requests for regional water supplies and to requests that will benefit the local governments with the most severe forecast water shortage to meet the long term needs identified in the local water supply plan.

(d) During the alternatives analysis, the Department shall request relevant information regarding the potential alternatives, including the establishment or expansion of the water supply reservoir or other water supply resources, from other State agencies with jurisdiction over any natural resources that will be impacted under the alternatives identified by the Department. Unless the local government agrees to an extension of time, the Department shall determine the preferred alternative within two years of the execution of a contract with the requesting local government for the costs of the analysis. The determination of the preferred alternative shall be binding on all State agencies unless the Department determines from its further evaluation during its review of any State or federal permit applications for the project that another preferred alternative should be selected in light of additional information brought forward during the permit reviews.

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

7 (f) The Department may provide technical assistance to a unit of local government in
8 obtaining federal permits for the preferred water supply alternative identified pursuant to
9 subsection (b) of this section. For purposes of providing technical assistance and conducting
10 studies in support of a proposed water supply project under this section, the Department may
11 enter into an agreement with one or more units of local government to conduct studies or
12 modeling. The agreement shall specify the allocation of costs for any studies or modeling
13 prepared by the Department in support of the project.

14 (g) When the Department has identified the most practicable alternative, a regional
15 water supply system may request that the Department become a co-applicant for all required
16 federal approvals for the alternative identified by the Department. The Department may
17 become a co-applicant when all of the following conditions are met:

18 (1) The regional water supply system has acquired or will acquire the property
19 necessary for construction of the water supply reservoir or other water
20 supply resource.

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

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

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

31 (h) Nothing in this section shall be construed to limit the authority of the Department to
32 require environmental permits or to apply and enforce environmental standards pursuant to
33 State law.

34 **"§ 143-355.8. Regional water supply planning organizations.**

35 (a) One or more water systems may establish a water supply planning organization to
36 plan for and manage water resource supply and demand on a regional basis. A water supply
37 planning organization may include representatives of local government water systems, water
38 authorities, nongovernmental water systems, and registered water withdrawers.

39 (b) A regional water supply planning organization may do any of the following:

40 (1) Identify sources of raw water supply for regional systems.

41 (2) Identify areas suitable for the development of new regional water sources.

42 (3) Identify opportunities for purchase and sale of water between water systems
43 to meet regional water supply needs.

44 (4) Prepare joint water supply plans.

45 (5) Enter into agreements with the Department for technical assistance in
46 identifying practical alternatives to meet regional water supply needs
47 pursuant to G.S. 143-355.7 or to provide studies in support of a proposed
48 regional water supply project.

49 (6) Support cooperative arrangements between water systems for purchase and
50 sale of water by providing technical assistance and voluntary mediation of
51 disputes concerning water supply.

1 (c) Nothing in this section shall be construed to alter the requirements for obtaining a
2 certificate for an interbasin transfer."

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