

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 609  
Committee Substitute Favorable 5/31/11

Short Title: Promote Water Supply Development.

(Public)

Sponsors:

Referred to:

April 5, 2011

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

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

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

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

11 Whereas, the resulting water allocation report found that certain areas of the State,  
12 including the piedmont, are expected to experience significant population growth over the next  
13 30 years and do not have adequate water supplies to support the expected growth; Now,  
14 therefore,

15 The General Assembly of North Carolina enacts:

16 **SECTION 1.** G.S. 143-355(b) is amended by adding two new subdivisions to read:

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

18 ...

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

23 a. Assist in the assessment of alternatives for meeting water supply  
24 needs; the conduct of engineering studies, hydraulic computations,  
25 and hydrographic surveys; and the development of a plan of study for  
26 purposes of obtaining necessary permits.

27 b. For budget and planning purposes, develop estimates of the costs of  
28 the proposed new water supply project.

29 c. Apply for State and federal permits for the development of regional  
30 water supplies.

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

35 **SECTION 2.** Article 38 of Chapter 143 of the General Statutes is amended by  
36 adding two new sections to read:



1 **"§ 143-355.7. Water supply development; State-local cooperation.**

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

- 6 (1) Are economically and practically feasible.  
7 (2) Make maximum, practical beneficial use of reclaimed wastewater and  
8 stormwater.  
9 (3) Comply with water quality classifications and standards.  
10 (4) Avoid or mitigate impacts to threatened or endangered species to the extent  
11 such species are protected by State or federal law.  
12 (5) Maintain downstream flows necessary to protect downstream users.  
13 (6) Do not have significant adverse impacts on other water withdrawals or  
14 wastewater discharges.  
15 (7) Avoid or mitigate water quality impacts consistent with the requirements of  
16 rules adopted by the Environmental Management Commission to implement  
17 33 U.S.C. § 1341.

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

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

35 (d) The Department may provide technical assistance to a unit of local government in  
36 obtaining federal permits for the preferred water supply alternative identified pursuant to  
37 subsection (a) of this section. For purposes of providing technical assistance and conducting  
38 studies in support of a proposed water supply project under this section, the Department may  
39 enter into an agreement with one or more units of local government to conduct studies or  
40 modeling. The agreement shall specify the allocation of costs for any studies or modeling  
41 prepared by the Department in support of the project.

42 (e) When the Department has identified the most practicable alternative, a regional  
43 water supply system may request that the Department become a co-applicant for all required  
44 federal approvals for the alternative identified by the Department. The Department may  
45 become a co-applicant when all of the following conditions are met:

- 46 (1) The regional water supply system has acquired or will acquire the property  
47 necessary for construction of the water supply reservoir or other water  
48 supply resource.  
49 (2) The local water supply plan shows that the regional water supply system has  
50 implemented appropriate conservation measures similar in effect to the  
51 measures in comparably sized North Carolina regional water supply systems.

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

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

8           (f)    Nothing in this section shall be construed to limit the authority of the Department to  
9           require environmental permits or to apply and enforce environmental standards pursuant to  
10          State law.

11          **"§ 143-355.8. Regional water supply planning organizations.**

12          (a)    One or more water systems may establish a water supply planning organization to  
13          plan for and coordinate water resource supply and demand on a regional basis. A water supply  
14          planning organization may include representatives of local government water systems, water  
15          authorities, nongovernmental water systems, and registered water withdrawers.

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

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

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

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

21               (4)    Prepare joint water supply plans.

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

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

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

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