

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE BILL 231

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

Sponsors: Senators Hartsell; and Atwater.

Referred to: Agriculture/Environment/Natural Resources.

March 8, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

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

"(d) Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may establish and administer within their utility service areas their own approval program in lieu of State approval of water system plans required in subsection (c) of this section for construction or alteration of the distribution system 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 satisfies all of the following criteria:  
 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.  
 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, 2011. 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, 2011. 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.