

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

H

3

HOUSE BILL 1765\*  
Committee Substitute Favorable 6/9/10  
Committee Substitute #2 Favorable 6/30/10

Short Title: Amend WQ/IBT Laws.

(Public)

Sponsors:

Referred to:

May 18, 2010

1 A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE COALITIONS OF LOCAL GOVERNMENTS TO JOINTLY  
3 IMPLEMENT WATER QUALITY PROTECTION PLANS FOR THE FALLS LAKE  
4 WATERSHED; TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN  
5 TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL  
6 REQUIRED PUBLIC HEARINGS; AND TO CREATE A TEMPORARY,  
7 STREAMLINED INTERBASIN TRANSFER CERTIFICATION PROCESS FOR  
8 INTERBASIN TRANSFERS IN THE CENTRAL COASTAL PLAIN CAPACITY USE  
9 AREA AND INTO ISOLATED RIVER BASINS.

10 The General Assembly of North Carolina enacts:

11 **SECTION 1.** Chapter 77 of the General Statutes is amended by adding a new  
12 Article to read:

13 "Article 8A.

14 "Falls Lake Watershed Association.

15 **"§ 77-119. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) "Board of directors" has the same meaning as in G.S. 55A-1-40.  
18 (2) "Falls Lake watershed" means those natural areas of drainage including all  
19 tributaries contributing to the supply of Falls Lake, the specific limits of  
20 which are designated by the Environmental Management Commission  
21 pursuant to G.S. 143-213.  
22 (3) "Local government" means a county, city, town, or incorporated village that  
23 is located in whole or in part within the Falls Lake watershed. Local  
24 government also includes any water or sewer authority that is created  
25 pursuant to Article 1 of Chapter 162A of the General Statutes that provides  
26 service within the Falls Lake watershed.  
27 (4) "Nonprofit corporation" has the same meaning as in G.S. 55A-1-40.

28 **"§ 77-120. Falls Lake Watershed Association criteria for creation; board of directors;**  
29 **purpose; meetings; and records.**

30 (a) Local governments may elect to incorporate the Falls Lake Watershed Association  
31 nonprofit corporation or establish the Association using an existing nonprofit corporation. The  
32 Association shall only be comprised of local governments that choose to participate in the  
33 Association.

34 (b) Each local government that elects to participate in the Association shall appoint a  
35 representative and an alternate representative to serve on the board of directors of the



1 Association. The first board of directors that is appointed to the Association shall adopt bylaws  
2 that govern the operation of the Association.

3 (c) The purposes of the Association may include, but are not limited to:

4 (1) Providing a forum for sharing information in order to assist local  
5 governments in complying with State and federal laws that pertain to the  
6 water quality in the Falls Lake watershed.

7 (2) Providing a mechanism for participating local governments to coordinate  
8 and fund common technical resources.

9 (3) Planning for and conducting water quality monitoring in the Falls Lake  
10 watershed in coordination with the Department of Environment and Natural  
11 Resources.

12 (4) Coordinating with the Department of Environment and Natural Resources in  
13 the development of a transparent and accessible system for recording and  
14 maintaining nutrient offsets and credits that complies with any rules adopted  
15 to protect and restore water quality in the Falls Lake watershed.

16 (5) Providing a public forum to review and discuss innovative approaches to  
17 restore, protect, and maintain water quality in the Falls Lake watershed.

18 (6) Conducting and evaluating scientific research that describes or predicts  
19 conditions related to or affecting water quality in the Falls Lake watershed,  
20 including the reservoir.

21 (d) The Association shall be subject to the requirements for meetings of public bodies  
22 pursuant to Article 33C of Chapter 143 of the General Statutes.

23 (e) The Association shall be subject to the requirements for public records pursuant to  
24 Chapter 132 of the General Statutes.

25 **"§ 77-121. Memoranda of understanding.**

26 To the extent allowed by law, the Department of Environment and Natural Resources may  
27 enter into memoranda of understanding with the Association to implement the purposes in  
28 G.S. 77-120(c).

29 **"§ 77-122. Authority.**

30 The authority granted pursuant to this Article is in addition to and not in derogation of any  
31 other authority granted to local governments under any other provision of law."

32 **SECTION 2.** G.S. 143-215.22L(e) reads as rewritten:

33 "(e) Public Hearing on the Draft Environmental Document. – The Commission shall  
34 hold a public hearing on the draft environmental document for a proposed interbasin transfer  
35 after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as  
36 provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate  
37 where a copy of the environmental document can be reviewed and the procedure to be followed  
38 by anyone wishing to submit written comments and questions on the environmental document.  
39 The Commission shall prepare a record of all comments and written responses to questions  
40 posed in writing. The record shall include complete copies of scientific or technical comments  
41 related to the potential impact of the interbasin transfer. The Commission shall accept written  
42 comment on the draft environmental ~~documents~~ document for a minimum of 30 days following  
43 the last public hearing. The applicant who petitions the Commission for a certificate under this  
44 section shall pay the costs associated with the notice and public hearing on the draft  
45 environmental document."

46 **SECTION 3.** G.S. 143-215.22L(j) reads as rewritten:

47 "(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the  
48 draft determination as provided in subsection (i) of this section, the Commission shall hold  
49 public hearings on the draft determination. At least one hearing shall be held in the affected  
50 area of the source river basin, and at least one hearing shall be held in the affected area of the  
51 receiving river basin. In determining whether more than one public hearing should be held

1 within either the source or receiving river basins, the Commission shall consider the differing  
 2 or conflicting interests that may exist within the river basins, including the interests of both  
 3 upstream and downstream parties potentially affected by the proposed transfer. The public  
 4 hearings shall be conducted by one or more hearing officers appointed by the Chair of the  
 5 Commission. The hearing officers may be members of the Commission or employees of the  
 6 Department. The Commission shall give at least 30 days' written notice of the public hearing as  
 7 provided in subsection (c) of this section. The Commission shall accept written comment on the  
 8 draft determination for a minimum of 30 days following the last public hearing. The  
 9 Commission shall prepare a record of all comments and written responses to questions posed in  
 10 writing. The record shall include complete copies of scientific or technical comments related to  
 11 the potential impact of the interbasin transfer. The applicant who petitions the Commission for  
 12 a certificate under this section shall pay the costs associated with the notice and public hearing  
 13 on the draft determination."

14 **SECTION 4.** Section 7 of S.L. 2007-518 reads as rewritten:

15 "**SECTION 7.(a)** Except as provided in ~~subsection (b)~~ subsections (b) and (c) of this  
 16 section, this act becomes effective when it becomes law and applies to any petition for a  
 17 certificate for a transfer of surface water from one river basin to another river basin first made  
 18 on or after that date.

19 "**SECTION 7.(b)** For a petition for a certificate for transfer of surface water from one river  
 20 basin to another river basin to supplement ground water supplies in the fifteen counties  
 21 designated as the Central Coastal Plain Capacity Use Area under 15A NCAC 2E .0501, this act  
 22 becomes effective 1 January ~~2011,2013~~. Prior to 1 January ~~2011,2013~~, a petition for a  
 23 certificate for transfer of surface water from one river basin to another river basin to  
 24 supplement ground water supplies in the fifteen counties designated as the Central Coastal  
 25 Plain Capacity Use Area shall be considered and acted upon by the Environmental  
 26 Management Commission pursuant to the procedures and standards set out in G.S. 143-215.22I  
 27 on 1 July 2007.

28 "**SECTION 7.(c)** For purposes of this subsection, "isolated river basin" means each of the  
 29 following river basins set out in G.S. 143-215.22G(1):

30	<u>g.</u>	<u>2-6</u>	<u>New River.</u>
31	<u>v.</u>	<u>9-4</u>	<u>Shalotte River.</u>
32	<u>aa.</u>	<u>12-1</u>	<u>Albemarle Sound.</u>
33	<u>hh.</u>	<u>17-1</u>	<u>White Oak River.</u>

34 For a petition for a certificate for transfer of surface water from a river basin to an isolated river  
 35 basin for the purpose of supplementing ground water supplies, this act becomes effective 1 July  
 36 2020. Prior to 1 July 2020, a petition for a certificate for transfer of surface water from a river  
 37 basin to an isolated river basin for the purpose of supplementing ground water supplies shall be  
 38 considered and acted upon by the Environmental Management Commission pursuant to the  
 39 procedures and standards set out in G.S. 143-215.22I on 1 July 2007."

40 **SECTION 5.** This act is effective when it becomes law. Sections 2 and 3 apply to  
 41 the costs, including costs of notice, associated with public hearings held on or after that date.