

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 114\*

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Short Title: Local Water Quality/LUST Cleanup.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A FRAMEWORK FOR DEVELOPING AND IMPLEMENTING COOPERATIVE STATE-LOCAL WATER QUALITY PROTECTION PLANS FOR RIVER BASINS AND SEGMENTS OF RIVER BASINS AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

**"§ 143-214.14. Cooperative State-local coalition water quality protection plans.**

(a) Definitions. – The following definitions apply in this section:

(1) 'Basin' means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.

(2) 'Coalition plan' means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.

1           (3) 'Local government' means a city, county, special district, authority, or  
2 other political subdivision of the State.

3           (4) 'Water quality protection' means management of water use, quantity,  
4 and quality.

5       (b) Legislative Findings. – This section establishes a framework to encourage  
6 State-local pollutant reduction strategies for basins under the supervision and  
7 coordination of the Commission. The General Assembly finds that:

8           (1) Water quality conditions and sources of water contamination may vary  
9 from one basin to another.

10          (2) Water quality conditions and sources of water contamination may vary  
11 within a basin.

12          (3) Some local governments have demonstrated greater capacity than others  
13 to protect and improve water quality conditions.

14          (4) In some areas of the State artificial alteration of watercourses by surface  
15 water impoundments or other means may have a significant effect on  
16 water quality.

17          (5) Imposition of standard basinwide water quality protection requirements  
18 and strategies may not equitably address the varying conditions and  
19 needs of all areas.

20          (6) There is a need to develop distinct approaches to address water quality  
21 protection in basins in the State, drawing upon the resources of local  
22 governments and the State, under the supervision and coordination of  
23 the Commission.

24       (c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to  
25 the extent practicable, the State shall adopt water quality protection plans that are  
26 developed and implemented in cooperation and coordination with local governments and  
27 that the State shall adopt water quality protection requirements that are proportional to  
28 the relative contributions of pollution from all sources in terms of both the loading and  
29 proximity of those sources. Furthermore, it is the goal of the General Assembly to  
30 encourage and support State-local partnerships for improved water quality protection  
31 through the provision of technical and financial assistance available through the Clean  
32 Water Management Trust Fund, the Wetlands Restoration Fund, water quality planning  
33 and project grant programs, the State's revolving loan and grant programs for water and  
34 wastewater facilities, other funding sources, and future appropriations. The Commission  
35 shall implement these goals in accordance with the standards, procedures, and  
36 requirements set out in this section.

37       (d) The Commission may, as an alternative method of attaining water quality  
38 standards in a basin, approve a coalition plan proposed by a coalition of local  
39 governments whose territorial area collectively includes the affected basin in the manner  
40 provided by this section. The Commission may approve a coalition plan proposed by a  
41 coalition of local governments whose territorial area or water quality protection plan does  
42 not include all of an affected basin if the Commission determines that the omission will  
43 not adversely affect water quality.

1       (e) A coalition of local governments choosing to propose a coalition plan to the  
2 Commission shall do so through a nonprofit corporation the coalition of local  
3 governments incorporates with the Secretary of State.

4       (f) The Commission may approve a coalition plan only if the Commission first  
5 determines that:

6           (1) The basin under consideration is an appropriate unit for water quality  
7 planning.

8           (2) The coalition plan meets the requirements of subsection (g) of this  
9 section.

10          (3) The coalition of local governments has formed a nonprofit corporation  
11 pursuant to subsection (e) of this section.

12          (4) The coalition plan has been approved by the governing board of each  
13 local government that is a member of the coalition of local governments  
14 proposing the coalition plan.

15          (5) The coalition plan will provide a viable alternative method of attaining  
16 equivalent compliance with federal and State water quality standards,  
17 classifications, and management practices in the affected basin.

18       (g) A coalition plan shall include all of the following:

19           (1) An assessment of water quality and related water quantity management  
20 in the affected basin.

21           (2) A description of the goals and objectives for protection and  
22 improvement of water quality and related water quantity management in  
23 the affected basin.

24           (3) A workplan that describes proposed water quality protection strategies,  
25 including point and nonpoint source programs, for achieving the  
26 specified goals and objectives; an implementation strategy including  
27 specified tasks, timetables for action, implementation responsibilities of  
28 State and local agencies; and sources of funding, where applicable.

29           (4) A description of the performance indicators and benchmarks that will be  
30 used to measure progress in achieving the specified goals and  
31 objectives, and an associated monitoring framework.

32           (5) A timetable for reporting to the Commission on progress in  
33 implementing the coalition plan.

34       (h) A coalition plan shall cover a specified period. The coalition plan may provide  
35 for the phasing in of specific strategies, tasks, or mechanisms by specified dates within  
36 the period covered by the plan. The Commission may approve one or more successive  
37 coalition plan periods. The coalition plan may include strategies that vary among the  
38 subareas or jurisdictions of the geographic area covered by the coalition plan.

39       (i) If a local government chooses to withdraw from a coalition of local  
40 governments or fails to implement a coalition plan, the remaining members of a coalition  
41 of local governments may prepare and submit a revised coalition plan for approval by the  
42 Commission. If the Commission determines that an approved coalition plan no longer  
43 provides a viable alternative method of attaining equivalent compliance with federal and

1 State water quality standards, classifications, and management practices, the Commission  
2 may suspend or revoke its approval of the coalition plan.

3 (j) The Commission may approve one or more amendments to a coalition plan  
4 proposed by a coalition of local governments through its nonprofit corporation with the  
5 approval of the governing board of each local government that is a member of the  
6 coalition of local governments that proposed the coalition plan.

7 (k) With the approval of the Commission, any coalition of local governments with  
8 an approved coalition plan may establish and implement a pollutant trading program for  
9 specific pollutants between and among point source dischargers and nonpoint pollution  
10 sources.

11 (l) The Commission shall submit an annual progress report on the implementation  
12 of this section to the Environmental Review Commission on or before 1 October of each  
13 year."

14 Section 2. The Environmental Management Commission shall submit the first  
15 report required by G.S. 143-214.14(l), as enacted by Section 1 of this act, on or before 1  
16 October 1998.

17 Section 3. Section 1 of this act constitutes a recent act of the General  
18 Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management  
19 Commission may adopt temporary rules to implement Section 1 of this act for one year  
20 from the date this act becomes effective.

21 Section 4. Notwithstanding the provisions of G.S. 143-215.84 and G.S. 143-  
22 215.94E and except as provided in subsection (d) of Section 1 of Chapter 648 of the 1995  
23 Session Laws (1996 Regular Session), no person shall be required to clean up a discharge  
24 or release from a leaking petroleum underground storage tank that has been classified as  
25 having a Class CDE impact pursuant to subsection (b) of Section 1 of Chapter 648 of the  
26 1995 Session Laws (1996 Regular Session).

27 Section 5. The Environmental Management Commission shall adopt the rule  
28 required by G.S. 143-215.94V(b) and Section 6 of Chapter 648 of the 1995 Session Laws  
29 (1996 Regular Session) as a temporary rule no later than 11 September 1997.

30 Section 6. This act is effective when it becomes law. Section 4 of this act  
31 expires when the temporary rule required by Section 5 of this act becomes effective as  
32 provided in G.S. 150B-21.3(a).