

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 157
Second Edition Engrossed 3/28/89
Environment & Natural Resources
Senate Committee Substitute Adopted 6/29/89

Short Title: State Water Plan.

(Public)

Sponsors:

Referred to:

February 6, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE DEVELOPMENT OF A STATE WATER
SUPPLY PLAN AND TO SPECIFY THE TERMS OF MEMBERS AND
QUORUM OF THE WATERSHED PROTECTION ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-355 reads as rewritten:

~~"§ 143-355. Transfer of certain powers, duties, functions and responsibilities of the
Department of Conservation and Development and of the Director of
said Department. Powers and duties of the Department.~~

(a) ~~Transfer Generally. — There are hereby transferred to the Department of
Water Resources those powers, duties, functions and responsibilities relating to water
resources now vested in the Department of Conservation and Development of the State
of North Carolina, and the Director thereof.~~

(b) ~~Functions to Be Performed. — It shall be the duty of the Department of
Natural Resources and Community Development to perform the following functions:
The Department shall:~~

(1) ~~To request~~ Request the North Carolina Congressional Delegation to
apply to the Congress of the United States whenever deemed necessary
for appropriations for protecting and improving any harbor or
waterway in the State and for accomplishing needed flood control,

- 1 shore-erosion prevention, and water-resources development for water
2 supply, water quality control, and other purposes.
- 3 (2) ~~To initiate,~~ Initiate, plan, and execute a long-range program for the
4 preservation, development and improvement of rivers, harbors, and
5 inland ports, and to promote the public interest therein.
- 6 (3) ~~To prepare,~~ Prepare and recommend to the Governor and the General
7 Assembly any legislation which may be deemed proper for the
8 preservation and improvement of rivers, harbors, dredging of small
9 inlets, provision for safe harbor facilities, and public tidewaters of the
10 State.
- 11 (4) ~~To make,~~ Make engineering studies, hydraulic computations,
12 hydrographic surveys, and reports regarding shore-erosion projects,
13 dams, reservoirs, and river-channel improvements; to develop, for
14 budget and planning purposes, estimates of the costs of proposed new
15 projects; to prepare bidding documents, plans, and specifications for
16 harbor, coastal, and river projects, and to inspect materials,
17 workmanship, and practices of contractors to assure compliance with
18 plans and specifications.
- 19 (5) ~~To cooperate,~~ Cooperate with the United States Army Corps of
20 Engineers in causing to be removed any wrecked, sunken or
21 abandoned vessel or unauthorized obstructions and encroachments in
22 public harbors, channels, waterways, and tidewaters of the State.
- 23 (6) ~~To cooperate,~~ Cooperate with the United States Coast Guard in marking
24 out and establishing harbor lines and in placing buoys and structures
25 for marking navigable channels.
- 26 (7) ~~To cooperate,~~ Cooperate with federal and interstate agencies in planning
27 and developing water-resource projects for navigation, flood control,
28 hurricane protection, shore-erosion prevention, and other purposes.
- 29 (8) ~~To provide,~~ Provide professional advice to public and private agencies,
30 and to citizens of the State, on matters relating to tidewater
31 development, river works, and watershed development.
- 32 (9) ~~To discuss,~~ Discuss with federal, State, and municipal officials and
33 other interested ~~persons,~~ persons a program of development of rivers,
34 harbors, and related resources.
- 35 (10) ~~To make,~~ Make investigations and render reports requested by the
36 Governor and the General Assembly.
- 37 (11) ~~To participate,~~ Participate in activity of the National Rivers and Harbors
38 Congress, the American Shore and Beach Preservation Association,
39 the American Watershed Council, the American Water Works
40 Association, the American Society of Civil Engineers, the Council of
41 State Governments, the Conservation Foundation, and other national
42 agencies concerned with conservation and development of water
43 resources.

- 1 (12) ~~To prepare~~ Prepare and maintain climatological and water-resources
2 records and files as a source of information easily accessible to the
3 citizens of the State and to the public generally.
- 4 (13) ~~To formulate~~ Formulate and administer a program of dune rebuilding,
5 hurricane protection, and shore-erosion prevention.
- 6 (14) ~~To include~~ Include in the biennial budget the cost of performing the
7 additional functions indicated above.
- 8 (15) ~~To initiate,~~ Initiate plan, study, and execute a long-range floodplain
9 management program for the promotion of health, safety, and welfare
10 of the public. In carrying out the purposes of this subsection, the
11 primary responsibility of floodplain management rests with the local
12 levels of government and it is, therefore, the policy of this State and of
13 this Department to provide guidance, coordination, and other means of
14 assistance, along with the other agencies of this State and with the
15 local levels of government, to effectuate adequate floodplain
16 management programs.

17 **(b1)** ~~This~~ The Department is directed to pursue an active educational program of
18 floodplain management measures, to include in each biennial report a statement of flood
19 damages, location where floodplain management is desirable, and suggested legislation,
20 if deemed desirable, and within its capacities to provide advice and assistance to State
21 agencies and local levels of government.

22 (c) Repealed by Session Laws 1961, c. 315.

23 (d) Investigation of Coasts, Ports and Waterways of State. – The Department of
24 ~~Natural Resources and Community Development~~ is designated as the official State agency
25 to investigate and cause investigations to be made of the coasts, ports and waterways of
26 North Carolina and to cooperate with agencies of the federal and State government and
27 other political subdivisions in making such investigations. ~~Provided, however, that the~~
28 The provisions of this section shall not be construed as in any way interfering with the
29 powers and duties of the Utilities Commission, relating to the acquiring of rights-of-way
30 for the Intra-Coastal Waterway; or to authorize the Department of ~~Natural Resources and~~
31 ~~Community Development~~ to represent the State in connection with such duties.

32 (e) Registration with Department of ~~Natural Resources and Community~~
33 ~~Development~~ Required; Registration Periods. – Every person, firm or corporation
34 engaged in the business of drilling, boring, coring or constructing wells in any manner
35 with the use of power machinery in this State, shall register annually with the ~~North~~
36 ~~Carolina~~ Department of ~~Natural Resources and Community Development~~ on forms to be
37 furnished by the said Department. The registration required hereby shall be made
38 during the period from January 1 to January 31 of each year.

39 (f) Samples of Cuttings to Be Furnished the Department of ~~Natural Resources and~~
40 ~~Community Development~~ When Requested. – Every person, firm or corporation engaged
41 in the business of drilling, boring, coring or constructing wells in any manner by the use
42 of power machinery shall furnish the Department of ~~Natural Resources and Community~~
43 ~~Development~~ samples of cuttings from such depths as the Department may require from
44 all wells constructed by such person, firm or corporation, when such samples are

1 requested by the Department. The Department shall bear the expense of delivering such
2 samples. The Department shall, after an analysis of the samples submitted, furnish a
3 copy of such analysis to the owner of the property on which the well was constructed;
4 the Department shall not report the results of any such analysis to any other person
5 whatsoever until the person legally authorized to do so authorizes in writing the release
6 of the results of the analysis.

7 (g) Reports of Each Well Required. – Every person, firm or corporation engaged
8 in the business of drilling, boring, coring, or constructing wells with power machinery
9 within the State of North Carolina shall, within 30 days of the completion of each well,
10 report to the Department of ~~Natural Resources and Community Development~~ on forms
11 furnished by the Department the location, size, depth, number of feet of casing used,
12 method of finishing, and formation log information of each such well. In addition such
13 person, firm or corporation shall report any tests made of each such well including the
14 method of testing, length of test, draw-down in feet and yield in gallons per minute.
15 The person, firm or corporation making such report to the Department of ~~Natural~~
16 ~~Resources and Community Development~~ shall at the time such report is made also furnish
17 a copy thereof to the owner of the property on which the well was constructed.

18 (h) Drilling for Petroleum and Minerals Excepted. – The provisions of this
19 Article shall not apply to drillings for petroleum and minerals.

20 (i) Penalty for Violation. – Any person violating the provisions of subsections
21 (e), (f) and (g) of G.S. 143-355 shall be guilty of a misdemeanor and, upon conviction,
22 shall be punished by a fine of fifty dollars (\$50.00). Each violation shall constitute a
23 separate offense.

24 (j) Miscellaneous Duties. — ~~There are also transferred to the Department of~~
25 ~~Water Resources the duties of the Board of Conservation and Development, as set forth~~
26 ~~in G.S. 113-8, to~~ The Department shall make investigations of water supplies and water
27 powers, prepare and maintain a general inventory of the water resources of the State and
28 take such measures as it may consider necessary to promote their development; and to
29 supervise, guide, and control the performance of the duties set forth in subsection (b) of
30 this section and to hold hearings with regard thereto. In connection with administration
31 of the well-drilling law the Department of ~~Conservation and Development shall, if~~
32 ~~requested by the Department of Water Resources,~~ may prepare analyses of well cuttings
33 for mineral and petroleum content.

34 (k) Water Use Information. – Any person using, withdrawing, diverting or
35 obtaining water from surface streams, lakes and underground water sources shall, upon
36 the request of the Department, file a monthly report with the Department of ~~Natural~~
37 ~~Resources and Community Development~~ showing the amount of water used, withdrawn,
38 diverted or obtained from such sources. Such report shall be on a form supplied by the
39 Department and shall show the identification of the water well or other withdrawal
40 facility, location, withdrawal rate (measured in gallons per minute), and total gallons
41 withdrawn during the month. Reports required to be filed under this subsection shall be
42 filed on or before the fifteenth day of the month succeeding the month during which the
43 using, withdrawing, diverting or obtaining water required to be reported occurred.
44 ~~Provided, however, this~~ This subsection does not apply to withdrawals or uses by

1 individuals or families for household, livestock, or gardens. All reports required under
2 this subsection are provided solely for the purpose of the ~~Department of Natural Resources~~
3 ~~and Community Development~~ Department. Within the meaning of this subsection the
4 term 'person' means any and all persons, including individuals, firms, partnerships,
5 associations, public or private institutions, municipalities or political subdivisions,
6 governmental agencies, and private or public corporations organized or existing under
7 the laws of this State or any other state or country.

8 (l) Each unit of local government that provides public water services or that
9 plans to provide such service shall, either individually or together with other such units
10 of local government, prepare a local water supply plan. The Department shall provide
11 technical assistance with the preparation of such plans to units of local government
12 upon request and to the extent that the Department has resources available to provide
13 such assistance. At a minimum, local units of government shall include in local water
14 supply plans such information as is readily available to them. However this subsection
15 shall be construed to require the preparation of local water supply plans only to the
16 extent that technical assistance is available to units of local government from the
17 Department. Such plans shall include present and projected population and water use
18 within the service area, present and future water supplies, an estimate of such technical
19 assistance as may be needed at the local level to address projected water needs, and such
20 other related information as the Department may require in the preparation of a State
21 water supply plan. Local plans shall be revised to reflect changes in relevant data and
22 projections at least once each five years unless the Department requests more frequent
23 revisions. Local plans and revised plans shall be submitted to the Department once they
24 have been approved by the unit(s) of local government.

25 (m) In order to assure the availability of adequate supplies of good quality water
26 to protect the public health and to support desirable economic growth, the Department
27 shall develop a State water supply plan. The State water supply plan shall include the
28 information and projections required to be included in local plans, a summary of the
29 technical assistance needs indicated by local plans, and shall indicate the extent to
30 which the various local plans are compatible. The State plan shall identify potential
31 conflicts among the various local plans and ways in which local water supply programs
32 could be better coordinated."

33 Sec. 2. G.S. 143-214.6 as enacted by Section 2 of Chapter 426 of the 1989
34 Session Laws (House Bill 156) is amended by adding two new subsections to read:

35 "(c1) Terms of office and removal from office. – Persons appointed to the Council
36 pursuant to subdivisions (5) through (13) of subsection (b) of this section shall be
37 appointed for two-year terms and until their successors are appointed and qualify. All
38 terms shall begin on 1 July of odd numbered years. Appointments to fill vacancies shall
39 be for the balance of the unexpired term. Vacancies in appointments made by the
40 General Assembly shall be filled in accordance with G.S. 120-122. The General
41 Assembly shall have the power, in accordance with G.S 143B-13, to remove any
42 member appointed by it. The Governor shall have the power, in accordance with G.S.
43 143B-13, to remove any other member.

1 (c2) Quorum. – A majority of the Council shall constitute a quorum for the
2 transaction of business."

3 Sec. 3. The Department of Human Resources and the Department of
4 Natural Resources and Community Development shall work cooperatively in the
5 implementation of this act. The Department of Natural Resources and Community
6 Development or its successor shall report semi-annually beginning 1 October 1989 to
7 the Joint Legislative Commission on Governmental Operations and the Environmental
8 Review Commission as to progress in the implementation of this act.

9 Sec. 4. This act shall not be construed to obligate the General Assembly to
10 make any appropriation to implement the provisions of this act.

11 Sec. 5. This act is effective upon ratification.