

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1421
Agriculture/Environment/Natural Resources Committee Substitute Adopted
7/24/07

Short Title: Amend Interbasin Transfer Laws.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

1
2 AN ACT TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO
3 STUDY ISSUES RELATED TO THE TRANSFER OF WATER FROM ONE
4 RIVER BASIN TO ANOTHER RIVER BASIN AND THE ALLOCATION OF
5 SURFACE WATER RESOURCES AND TO AMEND THE LAWS GOVERNING
6 THE TRANSFER OF WATER FROM ONE RIVER BASIN TO ANOTHER
7 RIVER BASIN.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** The General Assembly finds that:

- 10 (1) The findings set out in the Preamble to the Regional Water Supply
11 Planning Act of 1971, G.S. 162A-21, remain largely true today and the
12 purposes of that Act remain largely unfulfilled today.
- 13 (2) North Carolina still lacks a comprehensive regime for regulating
14 surface water withdrawals for consumptive and nonconsumptive uses
15 and that absence hinders the State's ability to make progress towards
16 fulfilling the goals of the Act of 1971.
- 17 (3) The provisions of G.S. 143-215.73A, which require the Department of
18 Environment and Natural Resources to prepare a statewide plan for
19 water resources development projects, are too limited in terms of scope
20 and time, and the resources available to the Department are insufficient
21 to produce a comprehensive approach to water resource management.
- 22 (4) The particular requirements of other statutes regarding water
23 resources, such as those regulating water transfers and withdrawals
24 and those regulating capacity use areas, are difficult to apply and lead
25 to unintended and even harmful consequences when applied in the
26 absence of a sufficient comprehensive system of regulation of surface
27 water resources within North Carolina.

- 1 (5) A number of North Carolina's major river basins extend into adjoining
2 states, creating the potential for conflicts between North Carolina and
3 adjoining states over the management of shared water basins, whereas
4 a comprehensive system of surface water withdrawal and management
5 would provide the State with a better means for avoiding or mitigating
6 those potential interstate conflicts.

7 **SECTION 1.(b)** The Environmental Review Commission, with the
8 assistance of the Department of Environment and Natural Resources, shall study the
9 allocation of surface water resources and their availability and maintenance in the State,
10 including issues related to the transfer of water from one river basin to another and the
11 withdrawal of water for consumptive use. The study shall include an evaluation of the
12 benefits of establishing formal or informal procedures for negotiating transfers of water
13 from one river basin to another. In the conduct of this study, the Environmental Review
14 Commission may employ independent consultants as provided in G.S. 120-32.02 and
15 G.S. 120-70.44. The Environmental Review Commission may submit an interim report
16 to the 2008 Regular Session of the General Assembly and shall submit a final report of
17 its findings and recommendations, including any legislative proposals, to the 2009
18 General Assembly.

19 **SECTION 2.** G.S. 143-215.22I is repealed.

20 **SECTION 3.** Part 2A of Article 21 of Chapter 143 of the General Statutes is
21 amended by adding a new section to read:

22 **"§ 143-215.22L. Regulation of surface water transfers.**

23 (a) Certificate Required. – No person, without first obtaining a certificate from
24 the Commission, may:

25 (1) Initiate a transfer of 2,000,000 gallons of water or more per day from
26 one river basin to another.

27 (2) Increase the amount of an existing transfer of water from one river
28 basin to another by twenty-five percent (25%) or more above the
29 average daily amount transferred during the year ending 1 July 1993 if
30 the total transfer including the increase is 2,000,000 gallons or more
31 per day.

32 (3) Increase an existing transfer of water from one river basin to another
33 above the amount approved by the Commission in a certificate issued
34 under G.S. 162A-7 prior to 1 July 1993.

35 (b) Exception. – Notwithstanding the provisions of subsection (a) of this section,
36 a certificate shall not be required to transfer water from one river basin to another up to
37 the full capacity of a facility to transfer water from one basin to another if the facility
38 was in existence or under construction on 1 July 1993.

39 (c) Notice of Intent to File a Petition. – An applicant shall prepare a notice of
40 intent to file a petition that includes a nontechnical description of the applicant's request
41 and an identification of the proposed water source. Within 90 days after the applicant
42 files a notice of intent to file a petition, the applicant shall hold at least one public
43 meeting in the source river basin upstream from the proposed point of withdrawal, at
44 least one public meeting in the source river basin downstream from the proposed point

1 of withdrawal, and at least one public meeting in the receiving river basin to provide
2 information to interested parties and the public regarding the nature and extent of the
3 proposed transfer and to receive comment on the scope of the environmental
4 documents. Written notice of the public meetings shall be provided at least 30 days
5 before the public meetings. At the time the applicant gives notice of the public
6 meetings, the applicant shall request comment on the alternatives and issues that should
7 be addressed in the environmental documents required by this section. The applicant
8 shall accept written comment on the scope of the environmental documents for a
9 minimum of 30 days following the public meetings. Notice of the public meetings and
10 opportunity to comment on the scope of the environmental documents shall be provided
11 as follows:

12 (1) By publishing notice in the North Carolina Register.

13 (2) By publishing notice in a newspaper of general circulation in:

14 a. Each county in the State located in whole or in part of the area
15 of the source river basin upstream from the proposed point of
16 withdrawal.

17 b. Each county in the State located in whole or in part of the area
18 of the source river basin downstream from the proposed point
19 of withdrawal.

20 c. Any area in the State in a river basin for which the source river
21 basin has been identified as a future source of water in a local
22 water supply plan prepared pursuant to G.S. 143-355(l).

23 d. Each county in the State located in whole or in part of the
24 receiving river basin.

25 (3) By giving notice by first-class mail or electronic mail to each of the
26 following:

27 a. The board of commissioners of each county in this State or any
28 adjacent state that is located entirely or partially within the
29 source river basin of the proposed transfer.

30 b. The board of commissioners of each county in this State or any
31 adjacent state that is located entirely or partially within the
32 receiving river basin of the proposed transfer.

33 c. The governing body of any public water supply system that
34 withdraws water upstream or downstream from the withdrawal
35 point of the proposed transfer.

36 d. If any portion of the source or receiving river basins is located
37 in an adjacent state, all state water management or use agencies,
38 environmental protection agencies, and the office of the
39 governor in each adjacent state upstream or downstream from
40 the withdrawal point of the proposed transfer.

41 e. All persons who have registered a water withdrawal or transfer
42 from the proposed source river basin under this Part or under
43 similar law in an adjacent state.

- 1 f. All persons who hold a certificate for a transfer of water from
2 the proposed source river basin under this Part or under similar
3 law in an adjacent state.
- 4 g. All persons who hold a National Pollutant Discharge
5 Elimination System (NPDES) wastewater discharge permit for
6 a discharge of 100,000 gallons per day or more upstream or
7 downstream from the proposed point of withdrawal.
- 8 h. To any other person who submits to the applicant a written
9 request to receive all notices relating to the petition.

10 (c1) Settlement Discussions. – Within 30 days after an applicant files notice of
11 intent to file a petition under this section, the Commission shall appoint a mediation
12 officer. The mediation officer may be a member of the Commission, an employee of the
13 Department, or a neutral third party but shall not be a hearing officer under subsections
14 (e) or (i) of this section. The mediation officer shall make a reasonable effort to initiate
15 settlement discussions between the applicant and all other interested parties. Evidence
16 of statements made and conduct that occurs in a settlement discussion conducted under
17 this subsection, whether attributable to a party, a mediation officer, or other person shall
18 not be subject to discovery and shall be inadmissible in any subsequent proceeding on
19 the petition for a certificate.

20 (d) Environmental Documents. – The definitions set out in G.S. 113A-9 apply to
21 this section. The Department shall conduct a study of the environmental impacts of any
22 proposed transfer of water for which a certificate is required under this section. The
23 study shall meet all of the requirements set forth in G.S. 113A-4 and rules adopted
24 pursuant to G.S. 113A-4. An environmental assessment shall be prepared for any
25 petition for a certificate under this section. The determination of whether an
26 environmental impact statement shall also be required shall be made in accordance with
27 the provisions of Article 1 of Chapter 113A of the General Statutes; except that an
28 environmental impact statement shall be prepared for every proposed transfer of water
29 from one major river basin to another for which a certificate is required under this
30 section. The applicant who petitions the Commission for a certificate under this section
31 shall pay the cost of special studies necessary to comply with Article 1 of Chapter 113A
32 of the General Statutes. An environmental impact statement prepared pursuant to this
33 subsection shall include all of the following:

- 34 (1) A comprehensive analysis of the impacts that would occur in the
35 source river basin and the receiving river basin if the petition for a
36 certificate is granted.
- 37 (2) An evaluation of alternatives to the proposed interbasin transfer,
38 including water supply sources that do not require an interbasin
39 transfer and use of water conservation measures.
- 40 (3) A description of measures to mitigate any adverse impacts that may
41 arise from the proposed interbasin transfer.

42 (e) Public Hearing on the Draft Environmental Document. – The Commission
43 shall hold a public hearing on the draft environmental document for a proposed
44 interbasin transfer after giving at least 30 days' written notice of the hearing in the

1 Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of
2 this section. The notice shall indicate where a copy of the environmental document can
3 be reviewed and the procedure to be followed by anyone wishing to submit written
4 comments and questions on the environmental document. The Commission shall
5 prepare a record of all comments and written responses to questions posed in writing.
6 The record shall include complete copies of scientific or technical comments related to
7 the potential impact of the interbasin transfer.

8 (f) Determination of Adequacy of Environmental Document. – The Commission
9 shall not act on any petition for an interbasin transfer until the Commission has
10 determined that the environmental document is complete and adequate. A decision on
11 the adequacy of the environmental document is subject to review in a contested case on
12 the decision of the Commission to issue or deny a certificate under this section.

13 (g) Petition. – An applicant for a certificate shall petition the Commission for the
14 certificate. The petition shall be in writing and shall include all of the following:

- 15 (1) A description of the facilities to be used to transfer the water, including
16 the location and capacity of water intakes, pumps, pipelines, and other
17 facilities.
- 18 (2) A description of all the proposed consumptive and nonconsumptive
19 uses of the water to be transferred.
- 20 (3) A description of the water quality of the source river and receiving
21 river, including information on aquatic habitat for rare, threatened, and
22 endangered species; in-stream flow data for segments of the source
23 and receiving rivers that may be affected by the transfer; and any
24 waters that are impaired pursuant to section 303(d) of the federal Clean
25 Water Act (33 U.S.C. § 1313(d)).
- 26 (4) A description of the water conservation measures used by the applicant
27 at the time of the petition and any additional water conservation
28 measures that the applicant will implement if the certificate is granted.
- 29 (5) A description of every source of water within the receiving river basin,
30 including surface water impoundments, groundwater wells, reinjection
31 storage, and purchase of water from another source within the river
32 basin, that is a practicable alternative to the proposed transfer that
33 would meet the applicant's water supply needs. The description of
34 water sources shall include sources available at the time of the petition
35 for a certificate and any planned or potential water sources.
- 36 (6) A description of water transfers and withdrawals registered under
37 G.S. 143-215.22H or included in a local water supply plan prepared
38 pursuant to G.S. 143-355(l) from the source river basin, including
39 transfers and withdrawals at the time of the petition for a certificate
40 and any planned or reasonably foreseeable transfers or withdrawals.
- 41 (7) A demonstration that the proposed transfer, if added to all other
42 transfers and withdrawals required to be registered under
43 G.S. 143-215.22H or included in any local water supply plan prepared
44 pursuant to G.S. 143-355(l) from the source river basin at the time of

1 the petition for a certificate, would not reduce the amount of water
2 available for use in the source river basin to a degree that would impair
3 existing uses, pursuant to the antidegradation policy set out in 40 Code
4 of Federal Regulation § 131.12 (Antidegradation Policy) (1 July 2006
5 Edition) and the statewide antidegradation policy adopted pursuant
6 thereto, or existing and planned consumptive and nonconsumptive uses
7 of the water in the source river basin. If the proposed transfer would
8 impact a reservoir within the source river basin, the demonstration
9 must include a finding that the transfer would not result in a water
10 level in the reservoir that is inadequate to support existing uses of the
11 reservoir, including recreational uses.

12 (8) The applicant's future water supply needs and the present and
13 reasonably foreseeable future water supply needs in the source river
14 basin. The analysis of future water supply needs shall include
15 agricultural, recreational, industrial, and hydropower uses. Local water
16 supply plans prepared pursuant to G.S. 143-355(l) for water systems in
17 the source river basin shall be used to evaluate the projected future
18 water needs in the source river basin that will be met by public water
19 systems.

20 (9) The applicant's water supply plan prepared pursuant to
21 G.S. 143-355(l). If the applicant's water supply plan is more than two
22 years old at the time of the petition, then the applicant shall include
23 with the petition an updated water supply plan.

24 (10) Any other information deemed necessary by the Commission for
25 review of the proposed water transfer.

26 (h) Draft Determination. – Within 90 days after the Commission determines that
27 the environmental document prepared in accordance with subsection (d) of this section
28 is adequate or the applicant submits its petition for a certificate, whichever occurs later,
29 the Commission shall issue a draft determination on whether to grant the certificate. The
30 draft determination shall be based on the criteria set out in this section and shall include
31 the conditions and limitations, findings of fact, and conclusions of law that would be
32 required in a final determination. Notice of the draft determination shall be given as
33 provided in subsection (c) of this section.

34 (i) Public Hearing on the Draft Determination. – Within 60 days of the issuance
35 of the draft determination as provided in subsection (h) of this section, the Commission
36 shall hold public hearings on the draft determination. At least one hearing shall be held
37 in the affected area of the source river basin, and at least one hearing shall be held in the
38 affected area of the receiving river basin. In determining whether more than one public
39 hearing should be held within either the source or receiving river basins, the
40 Commission shall consider the differing or conflicting interests that may exist within the
41 river basins, including the interests of both upstream and downstream parties potentially
42 affected by the proposed transfer. The public hearings shall be conducted by one or
43 more hearing officers appointed by the Chair of the Commission. The hearing officers
44 may be members of the Commission or employees of the Department. The Commission

1 shall give at least 30 days' written notice of the public hearing as provided in subsection
2 (c) of this section. The Commission shall prepare a record of all comments and written
3 responses to questions posed in writing. The record shall include complete copies of
4 scientific or technical comments related to the potential impact of the interbasin
5 transfer.

6 (j) Final Determination: Factors to be Considered. – In determining whether a
7 certificate may be issued for the transfer, the Commission shall specifically consider
8 each of the following items and state in writing its findings of fact and conclusions of
9 law with regard to each item:

10 (1) The necessity and reasonableness of the amount of surface water
11 proposed to be transferred and its proposed uses.

12 (2) The present and reasonably foreseeable future detrimental effects on
13 the source river basin, including present and future effects on public,
14 industrial, economic, recreational, and agricultural water supply needs,
15 wastewater assimilation, water quality, fish and wildlife habitat,
16 hydroelectric power generation, navigation, and recreation. Local
17 water supply plans prepared pursuant to G.S. 143-355(l) that affect the
18 source river basin shall be used to evaluate the projected future water
19 needs in the source river basin that will be met by public water
20 systems. Information on projected future water needs that is more
21 recent than the local water supply plans may be used if the
22 Commission finds the information to be reliable. The determination
23 shall include a specific finding as to measures that are necessary or
24 advisable to mitigate or avoid detrimental impacts on the source river
25 basin.

26 (3) The cumulative effect on the source major river basin of any water
27 transfer or consumptive water use that, at the time the Commission
28 considers the petition for a certificate is occurring, is authorized under
29 this section, or is projected in any local water supply plan that has been
30 submitted to the Department in accordance with G.S. 143-355(l).

31 (4) The present and reasonably foreseeable future beneficial and
32 detrimental effects on the receiving river basin, including present and
33 future effects on public, industrial, economic, recreational, and
34 agricultural water supply needs, wastewater assimilation, water
35 quality, fish and wildlife habitat, hydroelectric power generation,
36 navigation, and recreation. Local water supply plans prepared pursuant
37 to G.S. 143-355(l) that affect the receiving river basin shall be used to
38 evaluate the projected future water needs in the receiving river basin
39 that will be met by public water systems. Information on projected
40 future water needs that is more recent than the local water supply plans
41 may be used if the Commission finds the information to be reliable.
42 The determination shall include a specific finding as to measures that
43 are necessary or advisable to mitigate or avoid detrimental impacts on
44 the receiving river basin.

- 1 (5) The availability of alternatives to the proposed transfer, including the
2 potential capacity of alternative sources of water, the potential of each
3 alternative to reduce the amount of or avoid the proposed transfer,
4 probable costs, and environmental impacts. The determination shall
5 include a specific finding as to why the applicant's need for water
6 cannot be satisfied by alternatives within the receiving basin, including
7 unused capacity under a transfer for which a certificate is in effect or
8 that is otherwise authorized by law at the time the applicant submits
9 the petition. The determination shall include a specific finding as to
10 whether a current water source of the applicant is no longer available
11 due to depletion or contamination. The determination shall consider
12 the feasibility of the applicant's purchase of water from other water
13 suppliers within the receiving basin and of the transfer of water from
14 another sub-basin within the receiving major river basin. Except in
15 circumstances of technical or economic infeasibility or adverse
16 environmental impact, the Commission's determination as to
17 reasonable alternatives shall give preference to alternatives that would
18 involve a transfer from one sub-basin to another within the major
19 receiving river basin over alternatives that would involve a transfer
20 from one major river basin to another major river basin.
21 (6) If applicable to the proposed project, the applicant's present and
22 proposed use of impoundment storage capacity to store water during
23 high-flow periods for use during low-flow periods and the applicant's
24 right of withdrawal under G.S. 143-215.44 through G.S. 143-215.50.
25 (7) If the water to be withdrawn or transferred is stored in a multipurpose
26 reservoir constructed by the United States Army Corps of Engineers,
27 the purposes and water storage allocations established for the reservoir
28 at the time the reservoir was authorized by the Congress of the United
29 States.
30 (8) Any other facts and circumstances that are reasonably necessary to
31 carry out the purposes of this Part.

32 (k) Final Determination: Information to be Considered. – In determining whether
33 a certificate may be issued for the transfer, the Commission shall consider all of the
34 following sources of information:

- 35 (1) The petition.
36 (2) The environmental document prepared pursuant to subsection (d) of
37 this section.
38 (3) All oral and written comment and all accompanying materials or
39 evidence submitted pursuant to subsections (e) and (i) of this section.
40 (4) Information developed by or available to the Department on the water
41 quality of the source river basin and the receiving river basin,
42 including waters that are identified as impaired pursuant to section
43 303(d) of the federal Clean Water Act (33 U.S.C. § 1313(d)), that are
44 subject to a total maximum daily load (TMDL) limit under subsections

1 (d) and (e) of section 303 of the federal Clean Water Act, or that would
2 have their assimilative capacity impaired if the certificate is issued.

3 (5) Any other information that the Commission determines to be relevant
4 and useful.

5 (1) Final Determination: Burden and Standard of Proof; Specific Findings. – The
6 Commission shall grant a certificate for a water transfer if the Commission finds that the
7 applicant has established by a preponderance of the evidence all of the following:

8 (1) The benefits of the proposed transfer outweigh the detriments of the
9 proposed transfer. In making this determination, the Commission shall
10 be guided by the approved environmental document and the policy set
11 out in subsection (s) of this section.

12 (2) The detriments have been or will be mitigated to the maximum degree
13 practicable.

14 (3) The amount of the transfer does not exceed the amount of the
15 projected shortfall under the applicant's water supply plan after first
16 taking into account all other sources of water that are available to the
17 applicant.

18 (4) There are no reasonable alternatives to the proposed transfer.

19 (m) Final Determination: Certificate Conditions and Limitations. – The
20 Commission may grant the certificate in whole or in part, or deny the certificate. The
21 Commission may impose any conditions or limitations on a certificate that the
22 Commission finds necessary to achieve the purposes of this Part. The conditions and
23 limitations shall include any mitigation measures proposed by the applicant to minimize
24 any detrimental effects within the source and receiving river basins. In addition, the
25 certificate shall require all of the following conditions and limitations:

26 (1) A water conservation plan that specifies the water conservation
27 measures that will be implemented by the applicant in the receiving
28 river basin to ensure the efficient use of the transferred water. The
29 water conservation plan shall provide for the mandatory
30 implementation of water conservation measures by the applicant that
31 equal or exceed the most stringent water conservation plan
32 implemented by a public water system that withdraws water from the
33 source river basin.

34 (2) A drought management plan that specifies how the transfer shall be
35 managed to protect the source river basin during drought conditions or
36 other emergencies that occur within the source river basin. This
37 drought management plan shall include mandatory reductions in the
38 permitted amount of the transfer based on the severity and duration of
39 a drought occurring within the source river basin and shall provide for
40 the mandatory implementation of a drought management plan by the
41 applicant that equals or exceeds the most stringent water conservation
42 plan implemented by a public water system that withdraws water from
43 the source river basin.

- 1 (3) The maximum amount of water that may be transferred on a daily
2 basis, and methods or devices required to be installed and operated to
3 ensure that the maximum amount of water is not exceeded.
- 4 (4) A provision that the Commission may amend a certificate to reduce the
5 maximum amount of water authorized to be transferred whenever it
6 appears that an alternative source of water is available to the certificate
7 holder from within the receiving river basin, including, but not limited
8 to, the purchase of water from another water supplier within the
9 receiving basin or to the transfer of water from another sub-basin
10 within the receiving major river basin.
- 11 (5) A provision that the Commission shall amend the certificate to reduce
12 the maximum amount of water authorized to be transferred if the
13 Commission finds that the applicant's current projected water needs
14 are significantly less than the applicant's projected water needs at the
15 time the certificate was granted.
- 16 (6) Except as provided in this subdivision, a provision that the applicant
17 will not resell the water that would be transferred pursuant to the
18 certificate to another public water supply system. In the case of a
19 petition where the applicant proposes to furnish water to another
20 public water supply system within the receiving river basin, the
21 Commission may approve a certificate that contemplates the resale if
22 each jurisdiction included within the regional water supply system is a
23 co-applicant for the transfer and will be subject to all the terms,
24 conditions, and limitations made applicable to the primary applicant.
- 25 (7) Consistent with subsection (s) of this section, the applicant shall make
26 use of water available from within the receiving river basin before
27 transferring water from the source river basin.

28 (n) Administrative and Judicial Review. – Administrative and judicial review of
29 a final decision by the Commission on a petition for a certificate under this section shall
30 be governed by Chapter 150B of the General Statutes.

31 (o) Certain Preexisting Transfers. – In cases where an applicant requests approval
32 to increase a transfer that existed on 1 July 1993, the Commission may approve or
33 disapprove only the amount of the increase. If the Commission approves the increase,
34 the certificate shall be issued for the amount of the preexisting transfer plus any increase
35 approved by the Commission. A certificate for a transfer approved by the Commission
36 under G.S. 162A-7 shall remain in effect as approved by the Commission and shall have
37 the same effect as a certificate issued under this Part. A certificate for the increase of a
38 preexisting transfer shall contain all of the conditions and limitations required by
39 subsection (m) of this section.

40 (p) Emergency Transfers. – In the case of water supply problems caused by
41 drought, a pollution incident, temporary failure of a water plant, or any other temporary
42 condition in which the public health requires a transfer of water, the Secretary of
43 Environment and Natural Resources may grant approval for a temporary transfer. Prior
44 to approving a temporary transfer, the Secretary shall consult with those parties listed in

1 subdivision (3) of subsection (c) of this section that are likely to be affected by the
2 proposed transfer. However, the Secretary shall not be required to satisfy the public
3 notice requirements of this section or make written findings of fact and conclusions of
4 law in approving a temporary transfer under this subsection. If the Secretary approves a
5 temporary transfer under this subsection, the Secretary shall specify conditions to
6 protect other water users. A temporary transfer shall not exceed six months in duration,
7 but the approval may be renewed for a period of six months by the Secretary based on
8 demonstrated need as set forth in this subsection.

9 (q) Relationship to Federal Law. – The substantive restrictions, conditions, and
10 limitations upon surface water transfers authorized in this section may be imposed
11 pursuant to any federal law that permits the State to certify, restrict, or condition any
12 new or continuing transfers or related activities licensed, relicensed, or otherwise
13 authorized by the federal government. This section shall govern the transfer of water
14 from one river basin to another unless preempted by federal law.

15 (r) Planning Requirements. – When any transfer for which a certificate was
16 issued under this section equals or exceeds eighty percent (80%) of the maximum
17 amount authorized in the certificate, the applicant shall submit to the Department a
18 detailed plan that specifies how the applicant intends to address future foreseeable water
19 needs. If the applicant is required to have a local water supply plan, then this plan shall
20 be an amendment to the local water supply plan required by G.S.143-355(l). When the
21 transfer equals or exceeds ninety percent (90%) of the maximum amount authorized in
22 the certificate, the applicant shall begin implementation of the plan submitted to the
23 Department.

24 (s) Statement of Policy. – It is the public policy of the State to maintain, protect,
25 and enhance water quality within North Carolina. It is the public policy of this State that
26 projected future water needs in a receiving river basin are subordinate to projected
27 future water needs in a source river basin. Further, it is the public policy of the State that
28 the cumulative impact of transfers from a source river basin shall not result in a
29 violation of the antidegradation policy set out in 40 Code of Federal Regulations §
30 131.12 (1 July 2006 Edition) and the statewide antidegradation policy adopted pursuant
31 thereto.

32 (t) Fee. – An applicant for a certificate under this section shall pay a fee of ten
33 thousand dollars (\$10,000) to the Commission for processing a petition for a certificate.
34 The applicant shall pay the fee at the time the applicant submits the petition for a
35 certificate to the Commission."

36 **SECTION 4.** G.S. 113A-8.1 reads as rewritten:

37 **"§ 113A-8.1. Surface water transfers.**

38 An environmental assessment shall be prepared for any transfer for which a petition
39 is filed in accordance with ~~G.S. 143-215.22I~~G.S. 143-215.22L. The determination of
40 whether an environmental impact statement is needed with regard to the proposed
41 transfer shall be made in accordance with the provisions of this Article."

42 **SECTION 5.** G.S. 143-215.6A(a)(9) reads as rewritten:

43 "(9) Is required, but fails, to apply for or to secure a certificate required by
44 ~~G.S. 143-215.22I~~G.S. 143-215.22L, or who violates or fails to act in

1 accordance with the terms, conditions, or requirements of the
2 certificate."

3 **SECTION 6.** This act becomes effective 1 December 2007 and applies to
4 any petition for a certificate for a transfer of surface water from one river basin to
5 another river basin made on or after that date.