

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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SENATE BILL 1019

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

Sponsors: Senators Hartsell, Clodfelter; and Carpenter.

Referred to: Agriculture/Environment/Natural Resources.

April 5, 2001

A BILL TO BE ENTITLED

1
2 AN ACT REQUIRING THE INTERCONNECTION OF PUBLIC WATER SYSTEMS
3 OR WASTEWATER SYSTEMS TO REGIONAL SYSTEMS WHEN
4 NECESSARY TO PROMOTE PUBLIC HEALTH, PROTECT THE
5 ENVIRONMENT, AND ENSURE COMPLIANCE AND TO REQUIRE THAT
6 AN ANALYSIS OF REASONABLE ALTERNATIVES BE DONE BEFORE
7 CONSTRUCTING OR ALTERING A PUBLIC WATER SYSTEM.

8 The General Assembly of North Carolina enacts:

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

10 "(c) No person or unit of local government shall begin construction or alteration
11 of a public water system or award a contract for construction or alteration unless:

- 12 (1) The plans for construction or alteration have been prepared by an
13 engineer licensed by this State;
- 14 (2) The Department has determined that the system, as constructed or
15 altered, will be capable of compliance with the drinking water rules;
- 16 (3) The Department has determined that the system is capable of
17 interconnection at an appropriate time with an expanding municipal,
18 county or regional system; the Department may require
19 interconnection with a municipal, county, or regional system if
20 necessary to promote the public health, protect the environment, or
21 ensure compliance with drinking water rules;

22 (3a) The Department has determined that an analysis was done, including a
23 financial analysis, of all reasonable alternatives to the proposed
24 construction or alteration of the public water system and that the
25 analysis indicates that the proposed construction or alteration is
26 appropriate;

1 (4) The Department has determined that adequate arrangements have been
2 made for the continued operation, service and maintenance of the
3 public water system; and

4 (5) The Department has approved the plans and specifications."

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

6 "(d) Municipalities, counties, local boards or commissions, water and sewer
7 authorities, or groups of municipalities and counties may establish and administer
8 within their utility service areas their own approval program in lieu of State approval of
9 water system plans required in subsection (c) of this section for construction or
10 alteration of the distribution system of a proposed or existing public water system,
11 subject to the prior certification of the Department. For purposes of this subsection, the
12 service area of a municipality shall include only that area within the corporate limits of
13 the municipality and that area outside a municipality in its extraterritorial jurisdiction
14 where water service is already being provided to the permit applicant by the
15 municipality or connection to the municipal water system is immediately available to
16 the applicant; the service areas of counties and the other entities or groups shall include
17 only those areas where water service is already being provided to the applicant by the
18 permitting authority or connection to the permitting authority's system is immediately
19 available. No later than the 180th day after the receipt of an approval program and
20 statement submitted by any local government, commission, authority, or board, the
21 Department shall certify any local program that:

22 (1) Provides by ordinance or local law for requirements compatible with
23 those imposed by this Article, and the standards and rules adopted
24 pursuant to this Article;

25 (2) Provides that the Department receives notice and a copy of each
26 application for approval and that the Department receives copies of
27 approved plans;

28 (3) Provides that plans and specifications for all construction and
29 alterations be prepared by or under the direct supervision of an
30 engineer licensed to practice in this State;

31 (4) Provides for the adequate enforcement of the program requirements by
32 appropriate administrative and judicial process;

33 (5) Provides for the adequate administrative organization, engineering
34 staff, financial and other resources necessary to effectively carry out its
35 plan review program;

36 (6) Provides that the system is capable of interconnection at an appropriate
37 time with an expanding municipal, county, or regional ~~system~~; system
38 and requires interconnection with a municipal, county, or regional
39 system when the Department determines interconnection is necessary
40 to promote the public health, protect the environment, or ensure
41 compliance with drinking water rules.

42 (7) Provides for the adequate arrangement for the continued operation,
43 service, and maintenance of the public water system;

- 1 (8) Provides that an approved system, as constructed or altered, will be
2 capable of compliance with the drinking water rules; and
3 (9) Is approved by the Department as adequate to meet the requirements of
4 this Article and any applicable rules adopted pursuant to this Article.

5 The Department may deny, suspend, or revoke the certification of a local program
6 upon a finding that a violation of the provisions in subsection (d) of this section has
7 occurred. A local government administering an approval program shall be given notice
8 that there has been a tentative decision to deny, suspend, or revoke certification and that
9 an administrative hearing will be held in accordance with Chapter 150B of the General
10 Statutes where the decision may be challenged. If a violation of the provisions in
11 subsection (d) of this section presents an imminent hazard, certification may be
12 suspended or revoked immediately. The Department shall give notice of the immediate
13 suspension or revocation and notice that an administrative hearing will be held in
14 accordance with Chapter 150B of the General Statutes where the decision may be
15 challenged.

16 Notwithstanding any other provisions of this subsection, if the Department
17 determines that a public water system is violating plan approval requirements of a local
18 program and that the local government has not acted to enforce those approval
19 requirements, the Department may, after written notice to the local government, take
20 enforcement action in accordance with the provisions of this Article."

21 **SECTION 3.** G.S. 143-215.1(b)(4) reads as rewritten:

- 22 "(4) The Commission shall have the power:
- 23 a. To grant a permit with such conditions attached as the
24 Commission believes necessary to achieve the purposes of this
25 Article.
 - 26 b. To require that an applicant satisfy the Department that the
27 applicant, or any parent, subsidiary, or other affiliate of the
28 applicant or parent:
 - 29 1. Is financially qualified to carry out the activity for which
30 the permit is required under subsection (a) of this
31 section; and
 - 32 2. Has substantially complied with the effluent standards
33 and limitations and waste management treatment
34 practices applicable to any activity in which the
35 applicant has previously engaged, and has been in
36 substantial compliance with other federal and state laws,
37 regulations, and rules for the protection of the
38 environment.
 - 39 3. As used in this subdivision, the words 'affiliate,' 'parent,'
40 and 'subsidiary' have the same meaning as in 17 Code of
41 Federal Regulations § 240.12b-2 (1 April 1990 Edition).
 - 42 4. For a privately owned treatment works that serves 15 or
43 more service connections or that regularly serves 25 or
44 more individuals, financial qualification may be

1 demonstrated through the use of a letter of credit,
2 insurance, surety, trust agreement, financial test, bond, or
3 a guarantee by corporate parents or third parties who can
4 pass the financial test. No permit shall be issued under
5 this section for a privately owned treatment works that
6 serves 15 or more service connections or that regularly
7 serves 25 or more individuals, until financial
8 qualification is established and the issuance of the permit
9 shall be contingent on the continuance of the financial
10 qualification for the duration of the activity for which the
11 permit was issued.

12 c. To modify or revoke any permit upon not less than 60 days'
13 written notice to any person affected.

14 d. To designate certain classes of minor activities for which a
15 general permit may be issued, after considering:

- 16 1. The environmental impact of the activities;
- 17 2. How often the activities are carried out;
- 18 3. The need for individual permit oversight; and
- 19 4. The need for public review and comment on individual
20 permits.

21 e. To designate certain classes of minor activities for which:

- 22 1. Performance conditions may be established by rule; and
- 23 2. Individual or general permits are not required.

24 f. To require connection to a municipal, county, or regional
25 wastewater system if necessary to promote public health,
26 protect the environment, or ensure compliance with water
27 quality rules."

28 **SECTION 4.** G.S. 143-215.1(f) reads as rewritten:

29 "(f) Local Permit Programs for Sewer Extension. – Municipalities, counties, local
30 boards or commissions, water and sewer authorities, or groups of municipalities and
31 counties may establish and administer within their utility service areas their own general
32 permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and (8)
33 above, for construction, operation, alteration, extension, change of proposed or existing
34 sewer system, subject to the prior certification of the Commission. For purposes of this
35 subsection, the service area of a municipality shall include only that area within the
36 corporate limits of the municipality and that area outside a municipality in its
37 extraterritorial jurisdiction where sewer service is already being provided by the
38 municipality to the permit applicant or connection to the municipal sewer system is
39 immediately available to the applicant; the service areas of counties and the other
40 entities or groups shall include only those areas where sewer service is already being
41 provided to the applicant by the permitting authority or connection to the permitting
42 authority's system is immediately available. No later than the 180th day after the receipt
43 of a program and statement submitted by any local government, commission, authority,
44 or board the Commission shall certify any local program that:

- 1 (1) Provides by ordinance or local law for requirements compatible with
2 those imposed by this Part and the rules implementing this Part;
- 3 (2) Provides that the Department receives notice and a copy of each
4 application for a permit and that it receives copies of approved permits
5 and plans upon request by the Commission;
- 6 (3) Provides that plans and specifications for all construction, extensions,
7 alterations, and changes be prepared by or under the direct supervision
8 of an engineer licensed to practice in this State;
- 9 (4) Provides for the adequate enforcement of the program requirements by
10 appropriate administrative and judicial process;
- 11 (5) Provides for the adequate administrative organization, engineering
12 staff, financial and other resources necessary to effectively carry out its
13 plan review program;
- 14 (6) Provides that the system is capable of interconnection at an appropriate
15 time with an expanding municipal, county, or regional ~~system~~; system,
16 and requires interconnection with a municipal, county, or regional
17 system when the Department determines interconnection is necessary
18 to promote the public health, protect the environment, or ensure
19 compliance with water quality rules;
- 20 (6a) Provides that an analysis, including a financial analysis, of all
21 reasonable alternatives to any proposed construction or alteration of a
22 public water system must be done, and that the analysis must
23 demonstrate that the proposed construction or alteration is appropriate;
- 24 (7) Provides for the adequate arrangement for the continued operation,
25 service, and maintenance of the sewer system; and
- 26 (8) Is approved by the Commission as adequate to meet the requirements
27 of this Part and the rules implementing this Part.

28 The Commission may deny, suspend, or revoke certification of a local program upon
29 a finding that a violation of the provisions in subsection (f) of this section has occurred.
30 A denial, suspension, or revocation of a certification of a local program shall be made
31 only after notice and a public hearing. If the failure of a local program to carry out this
32 subsection creates an imminent hazard, the Commission may summarily revoke the
33 certification of the local program. Chapter 150B of the General Statutes does not apply
34 to proceedings under this subsection.

35 Notwithstanding any other provision of this subsection, if the Commission
36 determines that a sewer system, treatment works, or disposal system is operating in
37 violation of the provisions of this Article and that the appropriate local authorities have
38 not acted to enforce those provisions, the Commission may, after written notice to the
39 appropriate local government, take enforcement action in accordance with the
40 provisions of this Article."

41 **SECTION 5.** G.S. 143-215.1(b) is amended by adding two new subdivisions
42 to read:

- 1 "(6) No permit for a new or expanded municipal waste treatment system or
2 nonmunicipal treatment system (human waste only) shall be issued,
3 unless the applicant:
- 4 a. Has adopted a plan to implement a program to reduce demand
5 and manage existing capacity by reducing or eliminating storm
6 water and groundwater infiltration and intrusion into collection
7 lines;
- 8 b. Has performed and submits an analysis, including financial
9 analysis, of all alternatives to the proposed new or expanded
10 waste treatment system, including the consideration of
11 discharging to created wetlands and the beneficial reuse of
12 treated wastewater for nondrinking water purposes; and
- 13 c. Can demonstrate that the proposed new or expanded waste
14 treatment facility will be planned, designed, and constructed to
15 facilitate or accommodate eventual interconnection with
16 adjoining systems or regional waste treatment systems.
- 17 (7) In deciding whether to grant a permit application under subdivision (6)
18 of this subsection, the Department may consider whether the applicant
19 is making adequate progress in the implementation of G.S. 143-
20 215.1(b)(6)a. and may consider whether the applicant could feasibly
21 choose an alternative under G.S. 143-215.1(b)(6)b. that will provide
22 better protection for water quality."

23 **SECTION 6.** This act is effective when it becomes law.