

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1763*

Short Title: Improve River Basin Modeling. (Public)

Sponsors: Representatives Gibson, Harrison, Samuelson (Primary Sponsors); Carney, Dockham, Faison, Hughes, Insko, Justice, Tarleton, and Wray.

Referred to: Water Resources and Infrastructure, if favorable, Environment and Natural Resources.

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO IMPROVE THE DEVELOPMENT OF BASINWIDE HYDROLOGIC MODELS, TO IMPROVE PUBLIC ACCESS TO WATER AND WATER RESOURCES FUNDING INFORMATION, AND TO PROVIDE FOR REPORTING ON WATER USE EFFICIENCY IN THE STATE, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-350 reads as rewritten:

"§ 143-350. Definitions.

As used in this Article:

- (1) "Commission" means the Environmental Management Commission.
- (2) "Department" means the Department of Environment and Natural Resources.
- (2a) "Ecological flow" means the stream flow necessary to protect ecological integrity.
- (2b) "Ecological integrity" means the ability of an aquatic system to support and maintain a balanced, integrated, adaptive community of organisms having a species composition, diversity, and functional organization comparable to natural conditions and, when subject to disruption, to recover and continue to provide the natural goods and services that normally accrue from the system.
- (3) "Essential water use" means the use of water necessary for firefighting, health, and safety; water needed to sustain human and animal life; and water necessary to satisfy federal, State, and local laws for the protection of public health, safety, welfare, the environment, and natural resources; and a minimum amount of water necessary to maintain the economy of the State, region, or area.
- (3a) "Groundwater resource" means any water flowing or lying under the surface of the earth or contained within an aquifer.
- (4) "Large community water system" means a community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000 or more service connections or 3,000 or more individuals.
- (4a) "Surface water resource available yield" means the amount of surface water that can be withdrawn at a given location without violating the ecological integrity of the river basin in which the water resource is located and without impeding other allocated or permitted withdrawals in the river basin. Surface



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1 water resource available yield includes consideration of the connections
2 between surface water and groundwater resources in a given geographic
3 area.

4 (4b) "Surface water resource" means any lake, pond, river, stream, creek, run,
5 spring, or other water flowing or lying on the surface of the earth.

6 (5) "Unit of local government" means a county, city, consolidated city-county,
7 sanitary district, or other local political subdivision or authority or agency of
8 local government.

9 (6) "U.S. Drought Monitor" means the national drought map that designates
10 areas of drought using the following categories D0-Abnormally Dry,
11 D1-Moderate, D2-Severe, D3-Extreme, and D4-Exceptional. The U.S.
12 Drought Monitor is developed and maintained by the Joint Agricultural
13 Weather Facility, the Climate Prediction Center, the National Climatic Data
14 Center, and the National Drought Mitigation Center with input from the
15 United States Geological Survey, the National Water and Climate Center,
16 the Climate Diagnostics Center, the National Weather Service, state
17 climatologists, and state water resource agencies.

18 (7) "Water shortage emergency" means a water shortage resulting from
19 prolonged drought, contamination of the water supply, damage to water
20 infrastructure, or other unforeseen causes that presents an imminent threat to
21 public health, safety, and welfare or to the environment."

22 **SECTION 2.** G.S. 143-355 is amended by adding three new subsections to read:

23 "(o) Basinwide Hydrologic Models. – The Department shall develop a basinwide
24 hydrologic model for each of the 17 major river basins in the State as provided in this
25 subsection.

26 (1) Schedule. – The Department shall develop a schedule for basinwide
27 hydrologic model development. In developing the schedule, the Department
28 shall consider the need to give priority to river basins or portions of river
29 basins that the Department determines are likely to have an unacceptable
30 risk of water shortages.

31 (2) Model. – Each basinwide hydrologic model shall:

32 a. Include surface water resources within the river basin, groundwater
33 resources within the river basin to the extent known by the
34 Department, transfers into and out of the river basin that are required
35 to be registered under G.S. 143-215.22H, other withdrawals,
36 ecological flow and other instream flow requirements, projections of
37 future withdrawals, an estimate of return flows within the river basin,
38 inflow data, local water supply plans, and other scientific and
39 technical information the Department deems relevant.

40 b. Be designed to predict the flows and available yield of each surface
41 water resource within the basin that serves as a source of water for a
42 withdrawal registered under G.S. 143-215.22H.

43 c. Be based solely on data that is of public record and open to public
44 review and comment.

45 (3) Determination of unacceptable risk of water shortage. – The Department
46 shall determine whether any river basin or portion of a river basin faces an
47 unacceptable risk of water shortage. The Department shall develop risk
48 criteria for the determination of unacceptable risk of water shortages. One of
49 the risk criteria shall be whether the river basin hydrologic model
50 demonstrates or projects that the river basin or portion of the river basin does
51 not or will not have sufficient surface water resource available yield to meet

1 the needs of water withdrawers and instream water uses, including
2 ecological flow. This risk determination may consider any approved water
3 shortage response plans and permitted alternative water sources. The risk
4 determination shall project water supply and demand at each model node for
5 a period to be determined by the Department, but in no event less than 30
6 years.

7 (4) Protection of ecological integrity. – The Department shall develop, in
8 consultation with the North Carolina Wildlife Resources Commission, the
9 North Carolina Marine Fisheries Commission, the United States Fish and
10 Wildlife Service, and the National Marine Fisheries Service, ecological
11 criteria that will protect the ecological integrity of each river basin and each
12 river subbasin in the State.

13 (5) Interstate cooperation. – To the extent practicable, the Department shall
14 work with neighboring states to develop basinwide hydrologic models for
15 each river basin shared by North Carolina and another state.

16 (6) Report. – The Department shall report to the Environmental Review
17 Commission on the development of basinwide hydrologic models no later
18 than November 1 of each year.

19 (p) Public Access to Water Resource and Water Infrastructure Funding Information. –
20 The Department, in conjunction with the North Carolina League of Municipalities, the North
21 Carolina Association of County Commissioners, and interested private water systems, and with
22 the assistance of the Environmental Finance Center of the University of North Carolina at
23 Chapel Hill, shall develop and implement a plan to provide greater public access to water
24 resource and water infrastructure funding information.

25 (q) Water Efficiency Report. – The Department and the Department of Agriculture and
26 Consumer Services shall jointly report to the Environmental Review Commission no later than
27 April 1 of each year on implementation of water efficiency measures required under Section 9
28 of S.L. 2008-143 and other water efficiency efforts that are being implemented in the State."

29 **SECTION 3.** The first report required by G.S. 143-355(o), as enacted by Section 2
30 of this act, is due no later than November 1, 2011. The first report shall include the
31 Department's recommended schedule for river basin model development, the recommended
32 criteria for determining unacceptable risk of water shortage, the recommended criteria for
33 ensuring that the ecological integrity of river basins is protected, and a schedule to integrate
34 river basin hydrologic models and river basin water quality plans. The first report shall also
35 include an assessment of the resources needed to implement the provisions of this act.

36 **SECTION 4.** This act is effective when it becomes law.