

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS55053-LH-93 (02/04)

Short Title: Interconnection of Public Water Systems.

(Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT REQUIRING THE INTERCONNECTION OF PUBLIC WATER SYSTEMS OR WASTEWATER SYSTEMS TO REGIONAL SYSTEMS WHEN NECESSARY TO PROMOTE PUBLIC HEALTH, PROTECT THE ENVIRONMENT, AND ENSURE COMPLIANCE WITH DRINKING WATER RULES AND TO REQUIRE THAT AN ANALYSIS OF REASONABLE ALTERNATIVES BE DONE BEFORE CONSTRUCTING OR ALTERING A PUBLIC WATER SYSTEM.

The General Assembly of North Carolina enacts:

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

"(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless all of the following conditions are met:

- (1) The plans for construction or alteration have been prepared by an engineer licensed by this State.
- (2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water rules.
- (3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, ~~county~~-county, or regional ~~system~~; system; the Department may require interconnection with a municipal, county, or regional system within a county, or between or among counties if approved by the board of commissioners of each county, if necessary to promote the public health, protect the environment, or ensure compliance with drinking water rules.
- (3a) The Department has determined that an analysis was done, including a financial analysis, of the reasonable alternatives to the proposed construction or alteration of the public water system and that the analysis indicates that the proposed construction or alteration is appropriate.
- (4) The Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water system.
- (5) The Department has approved the plans and specifications."

**SECTION 2.** G.S. 130A-317(d)(6) reads as rewritten:

"(d) Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may establish and administer within their utility



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1 service areas their own approval program in lieu of State approval of water system plans  
 2 required in subsection (c) of this section for construction or alteration of the distribution system  
 3 of a proposed or existing public water system, subject to the prior certification of the  
 4 Department. For purposes of this subsection, the service area of a municipality shall include  
 5 only that area within the corporate limits of the municipality and that area outside a  
 6 municipality in its extraterritorial jurisdiction where water service is already being provided to  
 7 the permit applicant by the municipality or connection to the municipal water system is  
 8 immediately available to the applicant; the service areas of counties and the other entities or  
 9 groups shall include only those areas where water service is already being provided to the  
 10 applicant by the permitting authority or connection to the permitting authority's system is  
 11 immediately available. No later than the 180th day after the receipt of an approval program and  
 12 statement submitted by any local government, commission, authority, or board, the Department  
 13 shall certify any local program that meets all of the following conditions:

14 ...

15 (6) Provides that the system is capable of interconnection at an appropriate time  
 16 with an expanding municipal, county, or regional ~~system~~, system and  
 17 requires interconnection with a municipal, county, or regional system when  
 18 the Department determines interconnection is necessary to promote the  
 19 public health, protect the environment, or ensure compliance with drinking  
 20 water rules.

21 ...."

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

23 "(4) The Commission shall have the power:

- 24 a. To grant a permit with such conditions attached as the Commission
- 25 believes necessary to achieve the purposes of this Article.
- 26 b. To require that an applicant satisfy the Department that the applicant,
- 27 or any parent, subsidiary, or other affiliate of the applicant or parent:
  - 28 1. Is financially qualified to carry out the activity for which the
  - 29 permit is required under subsection (a) of this section; and
  - 30 2. Has substantially complied with the effluent standards and
  - 31 limitations and waste management treatment practices
  - 32 applicable to any activity in which the applicant has
  - 33 previously engaged, and has been in substantial compliance
  - 34 with other federal and state laws, regulations, and rules for
  - 35 the protection of the environment.
  - 36 3. As used in this subdivision, the words "affiliate," "parent,"
  - 37 and "subsidiary" have the same meaning as in 17 Code of
  - 38 Federal Regulations § 240.12b-2 (April 1, 1990, Edition).
  - 39 4. For a privately owned treatment works that serves 15 or more
  - 40 service connections or that regularly serves 25 or more
  - 41 individuals, financial qualification may be demonstrated
  - 42 through the use of a letter of credit, insurance, surety, trust
  - 43 agreement, financial test, bond, or a guarantee by corporate
  - 44 parents or third parties who can pass the financial test. No
  - 45 permit shall be issued under this section for a privately owned
  - 46 treatment works that serves 15 or more service connections or
  - 47 that regularly serves 25 or more individuals, until financial
  - 48 qualification is established and the issuance of the permit
  - 49 shall be contingent on the continuance of the financial
  - 50 qualification for the duration of the activity for which the
  - 51 permit was issued.

- 1 c. To modify or revoke any permit upon not less than 60 days' written  
2 notice to any person affected.
- 3 d. To designate certain classes of minor activities for which a general  
4 permit may be issued, after considering:
- 5 1. The environmental impact of the activities;
  - 6 2. How often the activities are carried out;
  - 7 3. The need for individual permit oversight; and
  - 8 4. The need for public review and comment on individual  
9 permits.
- 10 e. To designate certain classes of minor activities for which:
- 11 1. Performance conditions may be established by rule; and
  - 12 2. Individual or general permits are not required.
- 13 f. To require connection to a municipal, county, or regional wastewater  
14 system if necessary to promote public health, protect the  
15 environment, or ensure compliance with water quality rules."

16 **SECTION 4.** G.S. 143-215.1(b) is amended by adding two new subdivisions to

17 read:

- 18 "(6) No permit for a new or expanded municipal waste treatment system or  
19 nonmunicipal waste treatment system (human waste only) shall be issued,  
20 unless the applicant:
- 21 a. Has adopted a plan to implement a program to reduce demand and  
22 manage existing capacity by reducing or eliminating stormwater and  
23 groundwater infiltration and intrusion into collection lines;
  - 24 b. Has performed and submits an analysis, including a financial  
25 analysis, of reasonable alternatives to the proposed new or expanded  
26 waste treatment system, including the consideration of discharging to  
27 created wetlands and the beneficial reuse of treated wastewater for  
28 nondrinking water purposes; and
  - 29 c. Can demonstrate that the proposed new or expanded waste treatment  
30 facility will be planned, designed, and constructed to facilitate or  
31 accommodate eventual interconnection with adjoining systems or  
32 regional waste treatment systems.
- 33 (7) In deciding whether to grant a permit application under subdivision (6) of  
34 this subsection, the Commission may consider whether the applicant is  
35 making adequate progress in the implementation of sub-subdivision a. of  
36 subdivision (6) of this subsection and may consider whether the applicant  
37 could feasibly choose an alternative under sub-subdivision b. of subdivision  
38 (6) of this subsection that will provide better protection for water quality."

39 **SECTION 5.** G.S. 143-215.1(f) reads as rewritten:

40 "(f) Local Permit Programs for Sewer Extension and Reclaimed Water Utilization. –  
41 Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of  
42 municipalities and counties may establish and administer within their utility service areas their  
43 own general permit programs in lieu of State permit required in G.S. 143-215.1(a)(2), (3), and  
44 (8) above, for construction, operation, alteration, extension, change of proposed or existing  
45 sewer system, subject to the prior certification of the Commission. For purposes of this  
46 subsection, the service area of a municipality shall include only that area within the corporate  
47 limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction  
48 where sewer service or a reclaimed water utilization system is already being provided by the  
49 municipality to the permit applicant or connection to the municipal sewer system or a reclaimed  
50 water utilization system is immediately available to the applicant; the service areas of counties  
51 and the other entities or groups shall include only those areas where sewer service or a

1 reclaimed water utilization system is already being provided to the applicant by the permitting  
2 authority or connection to the permitting authority's system is immediately available. No later  
3 than the 180th day after the receipt of a program and statement submitted by any local  
4 government, commission, authority, or board the Commission shall certify any local program  
5 that does all of the following:

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

33 **SECTION 6.** The Commission for Health Services shall adopt rules to implement  
34 G.S. 130A-317, as amended by Sections 1 and 2 of this act, by October 1, 2009. The  
35 Environmental Management Commission shall adopt rules to implement G.S. 143-215.1, as  
36 amended by Sections 3, 4, and 5 of this act, by October 1, 2009. Notwithstanding  
37 G.S. 150B-21.1(a)(2), this act shall not be construed to authorize the adoption of temporary  
38 rules.

39 **SECTION 7.** This act is effective when it becomes law.