

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 492

Short Title: Protect Landowner Water Rights. (Public)

Sponsors: Senators Rouzer, Jackson, East; Brock, Daniel, and Hise.

Referred to: Agriculture/Environment/Natural Resources.

April 4, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE PROTECTION OF LANDOWNERS' WATER RIGHTS, AND
3 TO EXEMPT AGRICULTURAL PONDS FROM THE DAM SAFETY ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 38 of Chapter 143 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 143-350.1. Declaration of policy.**

8 The following principles constitute the water resources policy of the State. In rendering
9 administrative and judicial determinations regarding water use, the State and any political
10 subdivision of the State shall be governed by these principles.

11 (1) Water resources protected. – Access to and the ability to use water resources
12 is critical in preserving North Carolina's rich heritage as a societal,
13 economic, environmental, educational, and cultural leader. Protection of
14 these resources is a priority of the State.

15 (2) Protection of water will include voluntary initiatives. – The State will utilize
16 a combination of regulatory and voluntary programs to ensure the protection
17 of water resources and the preservation of landowner water rights.
18 Recognizing certain authority of the State to regulate water use in Articles
19 21 and 38 of Chapter 143 of the General Statutes, the intent of the State is to
20 limit the exercise of such authority in favor of working with landowners and
21 water users to encourage voluntary solutions to reducing water use.

22 (3) Encourage conservation and efficiency. – The State will examine, promote,
23 and implement programs that provide incentives for water users to conserve
24 water and increase water use efficiency.

25 (4) Encourage increased storage capacity. – The State will examine and seek to
26 eliminate regulatory impediments to increased development of water
27 resources and storage structures, including wells, ponds, reservoirs, and
28 other impoundments.

29 (5) Encourage reuse. – The State will encourage the adoption of programs that
30 facilitate the increased use of reclaimed water and recycled water and,
31 subject to a heightened standard of necessity and urgency, any statutes or
32 rules that interfere with the increased use of reclaimed and recycled water.

33 (6) Recognize roles of landowners. – The State will promote practices, projects,
34 and programs that encourage landowners to conserve and protect water
35 resources.

36 (7) Preservation of landowner water rights. – In carrying out its duty to protect
37 water resources, the State shall first identify incentives, voluntary programs,



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1 and other nonregulatory initiatives prior to exercising its authority under
2 Articles 21 and 38 of Chapter 143 of the General Statutes."

3 **SECTION 2.** G.S. 143-215.22 reads as rewritten:

4 **"§ 143-215.22. Law of riparian rights not changed.**

5 (a) Nothing contained in this Part shall change or modify existing common or statutory
6 law with respect to the relative rights of riparian owners concerning the use of surface water in
7 this State.

8 (b) Landowner Water Rights Protected. – Except for authority granted to the Governor,
9 Department, or Commission in Articles 21 and 38 of Chapter 143 of the General Statutes,
10 neither the State nor any political subdivision of the State shall limit a landowner
11 from withdrawing and using water from any of the following:

12 (1) A natural body of water abutting or located on the landowner's property.

13 (2) An impoundment constructed by or owned by the landowner.

14 (3) Wells constructed on the landowner's property.

15 (4) Other source of water on the landowner's property, including, but not limited
16 to, captured stormwater, springs, and artesian wells."

17 **SECTION 3.** G.S. 143-355.3(f) reads as rewritten:

18 "(f) Nothing in this section shall limit a landowner from withdrawing water for use in
19 agricultural activities, when such water is withdrawn from any of the following:

20 (1) A natural body of water abutting or located on the landowner's property.

21 (2) An impoundment constructed by or owned by the landowner.

22 (3) Wells constructed on the landowner's property.

23 (4) Other natural source of water on the landowner's property, including, but not
24 limited to, captured stormwater, springs, and artesian wells.

25 As used in this section, "agricultural activities" shall be defined as any activity described by
26 G.S. 106-581.1."

27 **SECTION 4.** G.S. 143-215.25A(a) is amended by adding a new subdivision to
28 read:

29 "(7) Constructed for the purpose of providing water for agricultural use, when a
30 person who is licensed as a professional engineer under Chapter 89C of the
31 General Statutes designed or approved plans for the dam and supervised its
32 construction."

33 **SECTION 5.** This act is effective when it becomes law.