

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

SESSION LAW 1997-524
SENATE BILL 947

AN ACT TO MODIFY THE BURDEN OF PROOF THAT MUST BE SATISFIED TO OBTAIN A CERTIFICATE AUTHORIZING AN INTERBASIN TRANSFER OF SURFACE WATERS, TO DIRECT THE ENVIRONMENTAL REVIEW COMMISSION TO STUDY ISSUES RELATING TO INTERBASIN TRANSFERS, AND TO IMPOSE A TEMPORARY MORATORIUM ON CERTAIN INTERBASIN TRANSFERS DURING THE PENDENCY OF THE STUDY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-215.22I(g) reads as rewritten:

"(g) A certificate shall be granted for a water transfer ~~unless~~ if the applicant establishes and the Commission concludes by a preponderance of the evidence based upon the findings of fact made under subsection (f) of this section that the potential detriments of the proposed transfer outweigh the benefits of the transfer. that: (i) the benefits of the proposed transfer outweigh the detriments of the proposed transfer, and (ii) the detriments have been or will be mitigated to a reasonable degree. The conditions necessary to ensure that the detriments are and continue to be mitigated to a reasonable degree shall be attached to the certificate in accordance with subsection (h) of this section."

Section 2. The Environmental Review Commission shall study issues relating to the transfer of surface waters between river basins in the State. As a part of this study, the Environmental Review Commission shall consider whether, and on what basis, the total volume of water that may be transferred from any river basin should be limited and whether the Environmental Management Commission should be authorized to issue special orders to remedy violations of laws or rules regulating transfers. The Environmental Review Commission shall report its findings, recommendations, and legislative proposals, if any, to the 1998 Regular Session of the General Assembly.

Section 3. As used in this section, "transfer" has the same meaning as in G.S. 143-215.22G. There is imposed a moratorium on any new transfer and on any increase in the permitted volume of an existing transfer for which a certificate is required under G.S. 143-215.22I. The Environmental Management Commission shall not issue a certificate for a new transfer or approve an increase in the permitted volume of an existing transfer during the period that the moratorium imposed by this section is in effect. During the moratorium imposed by this section, the Environmental Management

Commission may hold public meetings or hearings, gather information, and analyze additional data relevant to any interbasin transfer application submitted to it.

The moratorium imposed by this section does not apply to an application to increase the volume of an existing transfer that, on 1 May 1997, is registered under G.S. 143-215.22H and:

- (1) Was not permitted under G.S. 153A-285, repealed by Section 4 of Chapter 348 of the 1993 Session Laws, or G.S. 162A-7, repealed by Section 6 of Chapter 348 of the 1993 Session Laws; and
- (2) For which a certificate has not been issued under G.S. 143-215.22I.

Section 4. This act is effective when it becomes law. Section 3 of this act expires on the date that the 1997 General Assembly adjourns its 1998 Regular Session sine die.

In the General Assembly read three times and ratified this the 28th day of August, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:30 a.m. this 17th day of September, 1997