

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 2499\*  
Committee Substitute Favorable 7/8/08  
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Short Title: Drought/Water Management Recommendations. (Public)

Sponsors:

Referred to:

May 26, 2008

A BILL TO BE ENTITLED

AN ACT TO IMPROVE DROUGHT PREPAREDNESS AND RESPONSE IN  
NORTH CAROLINA, AS RECOMMENDED BY THE ENVIRONMENTAL  
REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143-215.22H reads as rewritten:

"§ 143-215.22H. **Registration of water withdrawals and transfers required.**

(a) Any person who withdraws 100,000 gallons per day or more of water from the surface or groundwaters of the State or who transfers 100,000 gallons per day or more of water from one river basin to another shall register the withdrawal or transfer with the Commission. A person registering a water withdrawal or transfer shall provide the Commission with the following information:

(1) The maximum daily amount of the water withdrawal or transfer expressed in thousands of gallons per day.

(1a) The monthly average withdrawal or transfer expressed in thousands of gallons per day.

(2) The location of the points of withdrawal and discharge and the capacity of each facility used to make the withdrawal or transfer.

(3) The monthly average discharge expressed in thousands of gallons per day.

(b) Any person initiating a new water withdrawal or transfer of 100,000 gallons per day or more shall register the withdrawal or transfer with the Commission not later than ~~six~~two months after the initiation of the withdrawal or transfer. The information required under subsection (a) of this section shall be submitted with respect to the new withdrawal or transfer.

(b1) Subsections (a) and (b) of this section shall not apply to a person who withdraws or transfers less than 1,000,000 gallons per day of water for activities directly

1 related or incidental to the production of crops, fruits, vegetables, ornamental and  
2 flowering plants, dairy products, livestock, poultry, and other agricultural products.

3 (c) A unit of local government that has completed a local water supply plan that  
4 meets the requirements of G.S. 143-355(l) and that has periodically revised and updated  
5 its plan as required by the Department has satisfied the requirements of this section and  
6 is not required to separately register a water withdrawal or transfer or to update a  
7 registration under this section.

8 (d) Any person who is required to register a water withdrawal or transfer under  
9 this section shall update the registration by providing the Commission with a current  
10 version of the information required by subsection (a) of this section at five-year  
11 intervals following the initial registration. A person who submits information to update  
12 a registration of a water withdrawal or transfer is not required to pay an additional  
13 registration fee under G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), but is subject to  
14 the late registration fee established under this section in the event that updated  
15 information is not submitted as required by this subsection.

16 (e) Any person who is required to register a water transfer or withdrawal under  
17 this section and fails to do so shall pay, in addition to the registration fee required under  
18 G.S. 143-215.3(a)(1a) and G.S. 143-215.3(a)(1b), ~~a late registration fee of five dollars~~  
19 ~~(\$5.00) per day for each day the registration is late up to a maximum of five hundred~~  
20 ~~dollars (\$500.00).~~ a civil penalty of one hundred dollars (\$100.00). A person who is  
21 required to update a registration under this section and fails to do so shall pay ~~a fee of~~  
22 ~~five dollars (\$5.00) per day for each day the updated information is late up to a~~  
23 ~~maximum of five hundred dollars (\$500.00).~~ a civil penalty of fifty dollars (\$50.00). A  
24 ~~late registration fee shall not be charged to a farmer who submits a registration that~~  
25 ~~pertains to farming operations.~~ For each willful action or failure to act for which a  
26 penalty may be assessed under this subsection, the Commission may consider each day  
27 the action or inaction continues after notice is given of the violation as a separate  
28 violation. A separate penalty may be assessed for each separate violation."

29 **SECTION 2.(a)** G.S. 106-24 reads as rewritten:

30 **"§ 106-24. Collection and publication of information relating to agriculture;**  
31 **cooperation.**

32 (a) The Department of Agriculture and Consumer Services shall collect, compile,  
33 systematize, tabulate, and publish statistical information relating to agriculture. The  
34 Department is authorized to use sample surveys to collect primary data relating to  
35 agriculture. The Department is authorized to cooperate with the United States  
36 Department of Agriculture and the several boards of county commissioners of the State,  
37 to accomplish the purpose of this Part.

38 (b) The Department of Agriculture and Consumer Services shall annually collect  
39 information on water use by persons who withdraw 10,000 gallons per day or more of  
40 water from the surface or groundwater sources of the State for activities directly related  
41 or incidental to the production of crops, fruits, vegetables, ornamental and flowering  
42 plants, dairy products, livestock, poultry, and other agricultural products. The  
43 information shall be collected by survey conducted pursuant to subsection (a) of this  
44 section and in accordance with Title 7 United States Code Section 2276 (Confidential

1 Information Protection and Statistical Efficiency Act). The Department shall develop  
2 the survey form in consultation with the Department of Environment and Natural  
3 Resources. The Department shall report the results of the water use survey to the  
4 Environmental Review Commission no later than 1 July of each year and shall provide a  
5 copy of the report to the Department of Environment and Natural Resources. The report  
6 shall include recommendations about modifications to the survey, including changes in  
7 the gallons per day threshold for water use data collection. The report shall provide  
8 agricultural water use data by county. If the county is located in more than one river  
9 basin, the report shall separate the county data to show agricultural water use by river  
10 basin within the county. If publication of county or watershed data would result in  
11 disclosure of an individual operation's water use, the data will be combined with data  
12 from another county or watershed."

13 **SECTION 2.(b)** The first report required by subsection (a) of this section  
14 shall be submitted on or before 1 July 2009.

15 **SECTION 3.** G.S. 143-350 reads as rewritten:

16 **"§ 143-350. Definitions.**

17 As used in this Article:

- 18 (1) "Commission" means the Environmental Management Commission.
- 19 (2) "Department" means the Department of Environment and Natural  
20 Resources.
- 21 (3) "Essential water use" means the use of water necessary for firefighting,  
22 health, and safety; water needed to sustain human and animal life; and  
23 water necessary to satisfy federal, State, and local laws for the  
24 protection of public health, safety, welfare, the environment, and  
25 natural resources; and a minimum amount of water necessary to  
26 maintain the economy of the State, region, or area.
- 27 (4) "Large community water system" means a community water system,  
28 as defined in G.S. 130A-313(10), that regularly serves 1,000 or more  
29 service connections or 3,000 or more individuals.
- 30 (5) "Unit of local government" means a county, city, consolidated  
31 city-county, sanitary district, or other local political subdivision or  
32 authority or agency or local government.
- 33 (6) "U.S. Drought Monitor" means the national drought map that  
34 designates areas of drought using the following categories  
35 D0-Abnormally Dry, D1-Moderate, D2-Severe, D3-Extreme, and  
36 D4-Exceptional. The U.S. Drought Monitor is developed and  
37 maintained by the Joint Agricultural Weather Facility, the Climate  
38 Prediction Center, the National Climatic Data Center, and the National  
39 Drought Mitigation Center with input from the United States  
40 Geological Survey, the National Water and Climate Center, the  
41 Climate Diagnostics Center, the National Weather Service, state  
42 climatologists, and state water resource agencies.
- 43 (7) "Water shortage emergency" means a water shortage resulting from  
44 prolonged drought, contamination of the water supply, damage to

1                   water infrastructure, or other unforeseen causes that presents an  
2                   imminent threat to public health, safety, and welfare or to the  
3                   environment."

4                   **SECTION 4.** G.S. 143-354 reads as rewritten:

5                   "**§ 143-354. Ordinary powers and duties of the Commission.**

6                   (a) Powers and Duties in General. – Except as otherwise specified in this Article,  
7                   the powers and duties of the Commission shall be as follows:

8                   (1) The Commission shall carry out a program of planning and education  
9                   concerning the most beneficial long-range conservation and use of the  
10                  water resources of the State. It shall investigate the long-range needs  
11                  of counties and municipalities and other local governments for water  
12                  supply storage available in federal projects.

13                  (2) The Commission shall advise the Governor as to how the State's  
14                  present water research activities might be coordinated.

15                  ~~(3) The Commission, based on information available, shall notify any~~  
16                  ~~municipality or other governmental unit of potential water shortages or~~  
17                  ~~emergencies foreseen by the Commission affecting the water supply of~~  
18                  ~~such municipality or unit together with the Commission's~~  
19                  ~~recommendations for restricting and conserving the use of water or~~  
20                  ~~increasing the water supply by or in such municipality or unit. Failure~~  
21                  ~~reasonably to follow such recommendations shall make such~~  
22                  ~~municipality or other governmental unit ineligible to receive any~~  
23                  ~~emergency diversion of waters as hereinafter provided.~~

24                  (4) The Commission is authorized to call upon the Attorney General for  
25                  such legal advice as is necessary to the functioning of the Commission.

26                  (5) Recognizing the complexity and difficulties attendant upon the  
27                  recommendation of the General Assembly of fair and beneficial  
28                  legislation affecting the use and conservation of water, the  
29                  Commission shall solicit from the various water interests of the State  
30                  their suggestions thereon.

31                  (6) The Commission may hold public hearings for the purpose of  
32                  obtaining evidence and information and permitting discussion relative  
33                  to water resources legislation and shall have the power to subpoena  
34                  witnesses therefor.

35                  (7) All recommendations for proposed legislation made by the  
36                  Commission shall be available to the public.

37                  (8) The Commission shall adopt such rules and regulations as may be  
38                  necessary to carry out the purposes of this Article.

39                  (9) Any member of the Commission or any person authorized by it, shall  
40                  have the right to enter upon any private or public lands or waters for  
41                  the purpose of making investigations and studies reasonably necessary  
42                  in the gathering of facts concerning streams and watersheds, subject to  
43                  responsibility for any damage done to property entered.

1 (10) The Commission is authorized to provide to federal agencies the  
2 required assurances, subject to availability of appropriations by the  
3 General Assembly or applicable funds or assurances from local  
4 governments, of nonfederal cooperation for water supply storage and  
5 other congressionally authorized purposes in federal projects.

6 (11) The Commission is authorized to assign or transfer to any county or  
7 municipality or other local government having a need for water supply  
8 storage in federal projects any interest held by the State in such  
9 storage, upon the assumption of repayment obligation therefor, or  
10 compensation to the State, by such local government. The Commission  
11 shall also have the authority to reassign or transfer interests in such  
12 storage held by local governments, if indicated by the investigation of  
13 needs made pursuant to subdivision (1) of subsection (a)(1)(a) of this  
14 section, subject to equitable adjustment of financial responsibility.

15 ~~(b) Declaration of Water Emergency.— Upon the request of the governing body~~  
16 ~~of a county, city or town the Commission shall conduct an investigation to determine~~  
17 ~~whether the needs of human consumption, necessary sanitation and public safety require~~  
18 ~~emergency action as hereinafter provided. Upon making such determination, the~~  
19 ~~Commission shall conduct a public hearing on the question of the source of relief water~~  
20 ~~after three days' written notice of such hearing has been given to any persons having the~~  
21 ~~right to the immediate use of water at the point from which such water is proposed to be~~  
22 ~~diverted. After determining the source of such relief water the Commission shall then~~  
23 ~~notify the Governor and he shall have the authority to declare a water emergency in an~~  
24 ~~area including said county, city or town and the source or sources of water available for~~  
25 ~~the relief hereinafter provided; provided, however, that no emergency period shall~~  
26 ~~exceed 30 days but the Governor may declare any number of successive emergencies~~  
27 ~~upon request of the Commission.~~

28 ~~(c) Water Emergency Powers and Duties of the Commission.— Whenever,~~  
29 ~~pursuant to this Article, the Governor has declared the existence of a water emergency~~  
30 ~~within a particular area of the State, the Commission shall have the following duties and~~  
31 ~~powers to be exercised only within said area and only during such time as the Governor~~  
32 ~~has, pursuant to this Article, designated as the period of emergency:~~

33 (1) ~~To authorize any county, city or town in which an emergency has been~~  
34 ~~declared to divert water in the emergency area sufficient to take care of~~  
35 ~~the needs of human consumption, necessary sanitation and public~~  
36 ~~safety. Provided, however, there shall be no diversion of waters from~~  
37 ~~any stream or body of water pursuant to this Article unless the person~~  
38 ~~controlling the water or sewerage system into which such waters are~~  
39 ~~diverted shall first have limited and restricted the use of water in such~~  
40 ~~water or sewerage system to human consumption, necessary sanitation~~  
41 ~~and public safety and shall have effectively enforced such restrictions.~~  
42 ~~Diversion of waters shall cease upon the termination of the water~~  
43 ~~emergency or upon the finding of the Commission that the person~~  
44 ~~controlling the water or sewerage system using diverted waters has~~

1           ~~failed to enforce effectively the restrictions on use to human~~  
2           ~~consumption and necessary sanitation and public safety. In the event~~  
3           ~~waters are diverted pursuant to this Article, there shall be no diversion~~  
4           ~~to the same person in any subsequent year unless the Commission~~  
5           ~~finds as fact from evidence presented that the person controlling the~~  
6           ~~water or sewerage system has made reasonable plans and acted with~~  
7           ~~due diligence pursuant thereto to eliminate future emergencies by~~  
8           ~~adequately enlarging such person's own water supply.~~

9           (2) ~~To make such reasonable rules and regulations governing the~~  
10           ~~conservation and use of diverted waters within the emergency area as~~  
11           ~~shall be necessary for the health and safety of the persons who reside~~  
12           ~~within the emergency area; and the violation of such rules and~~  
13           ~~regulations during the period of the emergency shall constitute a Class~~  
14           ~~1 misdemeanor; provided, however, that before such rules and~~  
15           ~~regulations shall become effective, they shall be published in not less~~  
16           ~~than two consecutive issues of not less than one newspaper generally~~  
17           ~~circulated in the emergency area.~~

18           (d) ~~Temporary Rights of Way. When any diversion of waters is ordered by the~~  
19           ~~Commission pursuant to this Article, the person controlling the water or sewerage~~  
20           ~~system into which such waters are diverted is hereby empowered to lay necessary~~  
21           ~~temporary water lines for the period of such emergency across, under or above any and~~  
22           ~~all properties to connect the emergency water supply to an intake of said water or~~  
23           ~~sewerage system. The route of such water lines shall be prescribed by the Commission.~~

24           (e) ~~Compensation for Water Allocated during Water Emergency and Temporary~~  
25           ~~Rights of Way. Whenever the Commission, pursuant to this Article has ordered any~~  
26           ~~diversion of waters, the person controlling the waters or sewerage system into which~~  
27           ~~such waters are diverted shall be liable to all persons suffering any loss or damage~~  
28           ~~caused by or resulting from the diversion of such waters or caused by or resulting from~~  
29           ~~the laying of temporary water lines to effectuate such diversion. The Commission,~~  
30           ~~before ordering such diversion, shall require that the person against whom liability~~  
31           ~~attaches hereunder to post bond with a surety approved by the Commission in an~~  
32           ~~amount determined by the Commission and conditioned upon the payment of such loss~~  
33           ~~or damage."~~

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

36 **"§ 143-355.2. Water conservation measures for drought.**

37           (a) Each unit of local government that provides public water service and each  
38 large community water system shall develop and implement water conservation  
39 measures to respond to drought or other water shortage conditions as provided in this  
40 section. Pursuant to G.S. 143-355(l), water conservation measures to respond to drought  
41 or other water shortage conditions shall be set out in a water shortage response plan and  
42 submitted to the Department for review and approval. The Department shall approve the  
43 water shortage response plan if the plan meets all of the following criteria:

- 1           (1)    The plan includes tiered levels of water conservation measures or other  
2           response actions based on the severity of water shortage conditions.
- 3           (2)    Each tier of water conservation measures shall be based on increased  
4           severity of drought or water shortage conditions and will result in more  
5           stringent water conservation measures.
- 6           (3)    All other requirements of rules adopted by the Commission pursuant to  
7           S.L. 2002-167.
- 8           (b)    The Department may require each unit of local government that provides  
9           public water service and each large community water system to implement the more  
10          stringent water conservation measures described in subsection (d) of this section if the  
11          Department makes written findings that any county, as determined by subsection (e) of  
12          this section, in which the source of water for the public water system operated by the  
13          unit of local government or by a large community water system is in:
- 14           (1)    Severe, extreme, or exceptional drought, and the Department finds all  
15           of the following:
- 16           a.     The unit of local government that provides water service or  
17           large community water system has not begun implementation of  
18           any level of water conservation measures set out in the water  
19           shortage response plan.
- 20           b.     Implementation of measures is necessary to minimize the  
21           harmful impacts of drought on public health, safety, and the  
22           environment, including the potential impacts of drought or other  
23           water shortage on interconnected water systems and other water  
24           systems withdrawing from the same water source, or
- 25           (2)    Extreme or exceptional drought, and the Department finds that the unit  
26           of local government that provides water service or large community  
27           water system has implemented the measures required under the water  
28           shortage response plan for the appropriate tier of water conservation  
29           measure for 30 days or more and that implementation of the measures  
30           required has not reduced water use in an amount sufficient to minimize  
31           the harmful impacts of drought on public health, safety, and the  
32           environment, including the potential impact of drought or other water  
33           shortage on interconnected water systems and other water systems  
34           withdrawing from the same water source.
- 35          (c)    In making the findings required under subsection (b) of this section, the  
36          Department shall consider the:
- 37           (1)    Hydrological drought conditions.
- 38           (2)    Drought forecast.
- 39           (3)    Reductions in water use achieved under water conservation measures  
40           in effect.
- 41           (4)    Availability of other water supply sources and other indicators of the  
42           extent and severity of drought impacts.
- 43           (5)    Economic impacts on the community to implement more stringent  
44           water conservation measures.

1           (6) Conservation measures of all registered water withdrawals within the  
2           same 8 digit hydrologic unit code established by the U.S. Geological  
3           Survey to the extent the Department is able to document those  
4           measures.

5           (d) Based on the findings required under subsection (b) of this section, the  
6           Department may require the unit of local government that provides public water service  
7           or the large community water system to begin implementation of its plan or to  
8           implement the next tier of water shortage response measures. If, after consultation with  
9           the unit of local government or the large community water system, the Department  
10          makes a written finding that the next tier of measures set out in the plan, together with  
11          any other reasonable steps that may be available to reduce water use, will not reduce  
12          water use in an amount sufficient to minimize the harmful impacts of drought on public  
13          health, safety, and the environment, including the potential impact of drought or other  
14          water shortage on interconnected water systems and other water systems drawing from  
15          the same water source, then the Department may require implementation of the tier that  
16          is two levels more stringent than the tier being implemented.

17          (e) For purposes of this section, the drought designation for an area shall be the  
18          U.S. Drought Monitor designation for the county in which the water source is located as  
19          published by the Drought Management Advisory Council. If the Secretary approves a  
20          county drought designation that is different from the U.S. Drought Monitor designation  
21          pursuant to G.S. 143-355.1(f1), the level of water conservation shall correspond to the  
22          designation approved by the Secretary. If the water source is located in more than one  
23          county and the counties have different drought designations, the Council shall  
24          recommend to the Secretary the level of water conservation measures to be  
25          implemented under this section by water systems that withdraw water from the water  
26          source. The recommendation of the Council shall be based on the drought indicators  
27          identified in G.S. 143-355.1(f) as applied to the water source.

28          (f) A unit of local government that provides public water service or large  
29          community water system that does not have a water shortage response plan shall  
30          implement the default water conservation measures for extreme and exceptional drought  
31          set out in the rules adopted by the Commission pursuant to S.L. 2002-167.

32          (g) A unit of local government that provides water service or a large community  
33          water system that does not have an approved water shortage response plan shall  
34          implement the default water conservation measures specified in subsection (f) of this  
35          section within 10 days following a drought designation that requires implementation of  
36          water conservation measures. A water shortage response plan is presumed to be  
37          approved until the Department notifies the unit of local government or large community  
38          water system that the plan has been disapproved. A unit of local government that  
39          provides water service and a large community water system shall be deemed to be in  
40          compliance with this section if, within 10 days after water shortage conditions identified  
41          in the plan require implementation of water conservation measures, the water system  
42          begins implementation of the water conservation measures required by the plan.

43          (h) Water conservation measures imposed by a unit of local government that  
44          provides public water service or by a large community water system may be more



1 stringent than the minimum water conservation measures required under this section.  
2 Except for a well that is a water supply source for a water system, this subsection shall  
3 not be construed to authorize the regulation of deepwater wells that do not impact  
4 surface water. This subsection shall not be construed to authorize a unit of government,  
5 public water supply system, or private water supply system to regulate water use from a  
6 well located outside of its jurisdiction, a well not connected to its water system, or any  
7 other private well.

8 (i) A unit of local government that provides water service and a large community  
9 water system shall report that the water system has begun implementation of water  
10 conservation measures set out in the water system's water shortage response plan or the  
11 default water conservation measures to the Department within 72 hours after beginning  
12 implementation.

13 (j) This section shall not be construed to authorize or require the implementation  
14 of water conservation management measures that conflict with or are superseded by the  
15 provisions of any order of a federal or State court or administrative agency, any  
16 interstate agreement governing the allocation of water to which the State is a party, or  
17 any license for a hydroelectric generating facility issued by the Federal Energy  
18 Regulatory Commission; including, without limitation, any protocol or subsidiary  
19 agreement that may be part of or incorporated in any such order, interstate agreement, or  
20 operating license."

21 **SECTION 6.(a)** The Environmental Review Commission, as part of its  
22 ongoing study of the allocation of water resources in the State required by Section 1 of  
23 S.L. 2007-518, shall study whether and to what extent private groundwater wells and  
24 the use of water produced by private groundwater wells should be regulated by the State  
25 or units of local government. The Environmental Review Commission shall report its  
26 findings and recommendations, including any legislative proposals, to the General  
27 Assembly as provided by Section 1 of S.L. 2007-518, as amended.

28 **SECTION 6.(b)** The Environmental Review Commission, as part of its  
29 ongoing study of the allocation of water resources in the State required by Section 1 of  
30 S.L. 2007-518, shall study issues related to increasing water supply, including issues  
31 related to reservoir construction and State laws and rules governing reservoir  
32 construction. The Environmental Review Commission shall report its findings and  
33 recommendations, including any legislative proposals, to the General Assembly as  
34 provided by Section 1 of S.L. 2007-518, as amended.

35 **SECTION 7.** G.S. 143-355 reads as rewritten:

36 "**§ 143-355. Powers and duties of the Department.**

37 (a) Repealed by Session Laws 1989, c. 603, s. 1.

38 (b) Functions to Be Performed. – The Department shall:

- 39 (1) Request the North Carolina Congressional Delegation to apply to the  
40 Congress of the United States whenever deemed necessary for  
41 appropriations for protecting and improving any harbor or waterway in  
42 the State and for accomplishing needed flood control, shore-erosion  
43 prevention, and water-resources development for water supply, water  
44 quality control, and other purposes.

- 1 (2) Initiate, plan, and execute a long-range program for the preservation,  
2 development and improvement of rivers, harbors, and inland ports, and  
3 to promote the public interest therein.
- 4 (3) Prepare and recommend to the Governor and the General Assembly  
5 any legislation which may be deemed proper for the preservation and  
6 improvement of rivers, harbors, dredging of small inlets, provision for  
7 safe harbor facilities, and public tidewaters of the State.
- 8 (4) Make engineering studies, hydraulic computations, hydrographic  
9 surveys, and reports regarding shore-erosion projects, dams, reservoirs,  
10 and river-channel improvements; to develop, for budget and planning  
11 purposes, estimates of the costs of proposed new projects; to prepare  
12 bidding documents, plans, and specifications for harbor, coastal, and  
13 river projects, and to inspect materials, workmanship, and practices of  
14 contractors to assure compliance with plans and specifications.
- 15 (5) Cooperate with the United States Army Corps of Engineers in causing  
16 to be removed any wrecked, sunken or abandoned vessel or  
17 unauthorized obstructions and encroachments in public harbors,  
18 channels, waterways, and tidewaters of the State.
- 19 (6) Cooperate with the United States Coast Guard in marking out and  
20 establishing harbor lines and in placing buoys and structures for  
21 marking navigable channels.
- 22 (7) Cooperate with federal and interstate agencies in planning and  
23 developing water-resource projects for navigation, flood control,  
24 hurricane protection, shore-erosion prevention, and other purposes.
- 25 (8) Provide professional advice to public and private agencies, and to  
26 citizens of the State, on matters relating to tidewater development,  
27 river works, and watershed development.
- 28 (9) Discuss with federal, State, and municipal officials and other interested  
29 persons a program of development of rivers, harbors, and related  
30 resources.
- 31 (10) Make investigations and render reports requested by the Governor and  
32 the General Assembly.
- 33 (11) Participate in activity of the National Rivers and Harbors Congress, the  
34 American Shore and Beach Preservation Association, the American  
35 Watershed Council, the American Water Works Association, the  
36 American Society of Civil Engineers, the Council of State  
37 Governments, the Conservation Foundation, and other national  
38 agencies concerned with conservation and development of water  
39 resources.
- 40 (12) Prepare and maintain climatological and water-resources records and  
41 files as a source of information easily accessible to the citizens of the  
42 State and to the public generally.
- 43 (13) Formulate and administer a program of dune rebuilding, hurricane  
44 protection, and shore-erosion prevention.

1           (14) Include in the biennial budget the cost of performing the additional  
2           functions indicated above.

3           (15) Initiate, plan, study, and execute a long-range floodplain management  
4           program for the promotion of health, safety, and welfare of the public.  
5           In carrying out the purposes of this subsection, the primary  
6           responsibility of floodplain management rests with the local levels of  
7           government and it is, therefore, the policy of this State and of this  
8           Department to provide guidance, coordination, and other means of  
9           assistance, along with the other agencies of this State and with the  
10          local levels of government, to effectuate adequate floodplain  
11          management programs.

12          (b1) The Department is directed to pursue an active educational program of  
13          floodplain management measures, to include in each biennial report a statement of flood  
14          damages, location where floodplain management is desirable, and suggested legislation,  
15          if deemed desirable, and within its capacities to provide advice and assistance to State  
16          agencies and local levels of government.

17          (c) Repealed by Session Laws 1961, c. 315.

18          (d) Investigation of Coasts, Ports and Waterways of State. – The Department is  
19          designated as the official State agency to investigate and cause investigations to be  
20          made of the coasts, ports and waterways of North Carolina and to cooperate with  
21          agencies of the federal and State government and other political subdivisions in making  
22          such investigations. The provisions of this section shall not be construed as in any way  
23          interfering with the powers and duties of the Utilities Commission, relating to the  
24          acquiring of rights-of-way for the Intra-Coastal Waterway; or to authorize the  
25          Department to represent the State in connection with such duties.

26          (e) Repealed by Session Laws 1998-129, s. 1, effective January 1, 2000.

27          (f) Samples of Cuttings to Be Furnished the Department When Requested. –  
28          Every person, firm or corporation engaged in the business of drilling, boring, coring or  
29          constructing wells in any manner by the use of power machinery shall furnish the  
30          Department samples of cuttings from such depths as the Department may require from  
31          all wells constructed by such person, firm or corporation, when such samples are  
32          requested by the Department. The Department shall bear the expense of delivering such  
33          samples. The Department shall, after an analysis of the samples submitted, furnish a  
34          copy of such analysis to the owner of the property on which the well was constructed;  
35          the Department shall not report the results of any such analysis to any other person  
36          whatsoever until the person legally authorized to do so authorizes in writing the release  
37          of the results of the analysis.

38          (g) Reports of Each Well Required. – Every person, firm or corporation engaged  
39          in the business of drilling, boring, coring, or constructing wells with power machinery  
40          within the State of North Carolina shall, within 30 days of the completion of each well,  
41          report to the Department on forms furnished by the Department the location, size, depth,  
42          number of feet of casing used, method of finishing, and formation log information of  
43          each such well. In addition such person, firm or corporation shall report any tests made  
44          of each such well including the method of testing, length of test, draw-down in feet and

1 yield in gallons per minute. The person, firm or corporation making such report to the  
2 Department shall at the time such report is made also furnish a copy thereof to the  
3 owner of the property on which the well was constructed.

4 (h) Drilling for Petroleum and Minerals Excepted. – The provisions of this  
5 Article shall not apply to drillings for petroleum and minerals.

6 (i) Penalty for Violation. – Any person violating the provisions of subsections  
7 (e), (f) and (g) of G.S. 143-355 shall be guilty of a Class 3 misdemeanor and, upon  
8 conviction, shall only be punished by a fine of fifty dollars (\$50.00). Each violation  
9 shall constitute a separate offense.

10 (j) Miscellaneous Duties. – The Department shall make investigations of water  
11 supplies and water powers, prepare and maintain a general inventory of the water  
12 resources of the State and take such measures as it may consider necessary to promote  
13 their development; and to supervise, guide, and control the performance of the duties set  
14 forth in subsection (b) of this section and to hold hearings with regard thereto. In  
15 connection with administration of the well-drilling law the Department may prepare  
16 analyses of well cuttings for mineral and petroleum content.

17 (k) Water Use Information. – Any person using, withdrawing, diverting or  
18 obtaining water from surface streams, lakes and underground water sources shall, upon  
19 the request of the Department, file a monthly report with the Department showing the  
20 amount of water used, withdrawn, diverted or obtained from such sources. Such report  
21 shall be on a form supplied by the Department and shall show the identification of the  
22 water well or other withdrawal facility, location, withdrawal rate (measured in gallons  
23 per minute), and total gallons withdrawn during the month. Reports required to be filed  
24 under this subsection shall be filed on or before the fifteenth day of the month  
25 succeeding the month during which the using, withdrawing, diverting or obtaining water  
26 required to be reported occurred. This subsection does not apply to withdrawals or uses  
27 by individuals or families for household, livestock, or gardens. All reports required  
28 under this subsection are provided solely for the purpose of the Department. Within the  
29 meaning of this subsection the term "person" means any and all persons, including  
30 individuals, firms, partnerships, associations, public or private institutions,  
31 municipalities or political subdivisions, governmental agencies, and private or public  
32 corporations organized or existing under the laws of this State or any other state or  
33 country. In the event of extreme or exceptional drought or other water shortage, the  
34 Department may require each local government water system and each large community  
35 water system in the affected area to report the amount of water used, withdrawn,  
36 diverted, or obtained on a weekly basis and may require the reporting of additional  
37 information necessary to assess and manage the drought or water shortage.

38 ~~(l) For purposes of this subsection, "community water system" means a~~  
39 ~~community water system, as defined in G.S. 130A-313(10), that regularly serves 1,000~~  
40 ~~or more service connections or 3,000 or more individuals.~~ Local Water Supply Plans. –  
41 Each unit of local government that provides public water service or that plans to provide  
42 public water service and each large community water system shall, either individually  
43 or together with other units of local government and large community water systems,  
44 prepare a local water supply plan and submit it to the Department. ~~Department for~~

1 approval. The Department shall provide technical assistance with the preparation of  
2 plans to units of local government and large community water systems upon request and  
3 to the extent that the Department has resources available to provide assistance. At a  
4 minimum, each unit of local government and large community water system shall  
5 include in local water supply plans all information that is readily available to it. Plans  
6 shall include present and projected population, industrial development, and water use  
7 within the service area; present and future water supplies; an estimate of the technical  
8 assistance that may be needed at the local level to address projected water needs; current  
9 and future water conservation and water reuse programs; a description of how the local  
10 government or large community water system will respond to drought and other water  
11 shortage emergencies and continue to meet essential public water supply needs during  
12 the emergency; and any other related information as the Department may require in the  
13 preparation of a State water supply plan. Local plans shall be revised to reflect changes  
14 in relevant data and projections at least once each five years unless the Department  
15 requests more frequent revisions. The revised plan shall include the current and  
16 anticipated reliance by the local government unit or large community water system on  
17 surface water transfers as defined by G.S. 143-215.22G. Local plans and revised plans  
18 shall be submitted to the Department once they have been approved by each unit of  
19 local government and large community water system that participated in the preparation  
20 of the plan.

21 (m) In order to assure the availability of adequate supplies of good quality water  
22 to protect the public health and to support desirable economic growth, the Department  
23 shall develop a State water supply plan. The State water supply plan shall include the  
24 information and projections required to be included in local plans, a summary of water  
25 conservation and water reuse programs described in local plans, a summary of the  
26 technical assistance needs indicated by local plans, and shall indicate the extent to  
27 which the various local plans are compatible. The State plan shall identify potential  
28 conflicts among the various local plans and ways in which local water supply programs  
29 could be better coordinated.

30 (n) The Department of Environment and Natural Resources shall report to the  
31 Environmental Review Commission on the implementation of this section and the  
32 development of the State water supply plan on or before 1 September of each year."

33 **SECTION 8.** Article 38 of Chapter 143 of the General Statutes is amended  
34 by adding a new section to read:

35 "**§ 143-355.3. Water shortage emergency powers.**

36 (a) Declaration of Water Shortage Emergency. – If, after consultation with the  
37 affected water system and the unit of local government with jurisdiction over the area  
38 served by the water system, the Secretary determines that the needs of human  
39 consumption, necessary sanitation, and public safety require emergency action, the  
40 Secretary shall provide the Governor with written findings setting out the basis for  
41 declaration of a water shortage emergency. The Governor shall have the authority to  
42 declare a water shortage emergency in the area affected by the water shortage  
43 emergency, which may include both the water system experiencing a water shortage  
44 emergency and the area served by a water system required under subdivision (1) of

1 subsection (b) of this section to provide water in response to the water shortage  
2 emergency. No emergency period shall exceed 30 days, but the Governor may declare  
3 successive emergencies based upon the written findings of the Secretary.

4 (b) Water Shortage Emergency Powers and Duties. – Whenever, pursuant to this  
5 Article, the Governor declares the existence of a water shortage emergency within a  
6 particular area of the State, the Secretary shall have the powers and duties set out in  
7 subdivisions (1), (2), and (3) of this subsection. These powers may only be exercised  
8 within the designated water shortage emergency area, after the Secretary has consulted  
9 with the affected water systems and determined that the water shortage emergency  
10 cannot be effectively managed in the absence of exercising these powers, and only for  
11 the period of the water shortage emergency. Under these circumstances, the Secretary  
12 has the power and duty to:

13 (1) Require any water system that has water supply in excess of that  
14 required to meet the essential water uses of its customers to provide  
15 water to a water system experiencing a water shortage emergency. The  
16 Secretary shall give preference to diversion of water from a water  
17 system within the same river basin as the water system that is  
18 experiencing a water shortage emergency. A diversion of water that  
19 requires a certificate under G.S. 143-215.22L shall meet the  
20 requirements of that section. The amount required to be supplied shall  
21 be limited to the amount necessary to supply essential water uses  
22 within the receiving system. The required diversion of waters shall  
23 cease upon the termination of the water shortage emergency.

24 (2) Adopt rules governing the conservation and use of water within the  
25 water shortage emergency area as shall be necessary to maintain  
26 essential water use within the water shortage emergency area. Before  
27 such rules and regulations shall become effective, they shall be  
28 published in two consecutive issues of a daily newspaper generally  
29 circulated in the emergency area. This subdivision shall not be  
30 construed to authorize a unit of government, public water supply  
31 system, or private water supply system to regulate water use from a  
32 well located outside of its jurisdiction, a well not connected to its water  
33 system, or any other private well.

34 (3) Adopt rules governing conservation and use of water within the  
35 service area of the water system from which water is being diverted as  
36 shall be necessary to maintain essential water uses in the system while  
37 supplying water to the water shortage emergency area. This  
38 subdivision shall not be construed to authorize a unit of government,  
39 public water supply system, or private water supply system to regulate  
40 water use from a well located outside of its jurisdiction, a well not  
41 connected to its water system, or any other private well.

42 (c) Temporary Rights-of-Way. – A water system that is affected by a water  
43 shortage emergency is authorized to lay necessary temporary waterlines for the period  
44 of a declared water shortage emergency across, under, or above any and all properties to

1 connect the water system experiencing a water shortage emergency to an emergency  
2 intake in a new water source or to interconnect the water system to a supplying water or  
3 wastewater system without first acquiring right-of-way. The Department shall expedite  
4 the approval of temporary waterlines needed to provide emergency water supply under  
5 this section. Temporary waterlines installed under this section shall be removed within  
6 90 days following the end of the emergency period except that the Secretary may, for  
7 good cause, authorize a 30-day extension.

8 (d) Compensation for Water Allocated During Water Shortage Emergency and  
9 Temporary Rights-of-Way. – Whenever the Secretary, pursuant to this Article, has  
10 ordered any diversion of water, the receiving water or wastewater system shall  
11 reimburse the supplying water system for the cost of the water. The cost charged to the  
12 receiving system shall not exceed one hundred ten percent (110%) of the retail cost that  
13 would be charged to a customer of the supplying system for an equivalent amount of  
14 water and any additional costs incurred by the supplying system for alterations to its  
15 infrastructure or water treatment to effectuate the diversion except as provided under an  
16 interlocal agreement. Unless liability is otherwise assigned in an interlocal agreement,  
17 the receiving water system shall be liable to all persons suffering any loss or damage  
18 caused by or resulting from the laying of temporary waterlines to effectuate the  
19 diversion. Within 10 days of placing the temporary waterlines, the water system that is  
20 liable shall institute a civil action in accordance with the procedures set out under  
21 Article 9 of Chapter 136 of the General Statutes to compensate the property owners for  
22 any taking caused by or resulting from the laying of temporary waterlines, with the  
23 water system that is liable having the role of the Department of Transportation and the  
24 governing board of the water system that is liable having the role of the Secretary of  
25 Transportation under Article 9 of Chapter 136 of the General Statutes.

26 (e) This section shall not be construed to authorize or require any actions that  
27 conflict with or are superseded by the provisions of any order of a federal or State court  
28 or administrative agency, any interstate agreement governing the allocation of water to  
29 which the State is a party, or any license for a hydroelectric generating facility issued by  
30 the Federal Energy Regulatory Commission; including, without limitation, any protocol  
31 or subsidiary agreement that may be part of or incorporated in any such order, interstate  
32 agreement, or operating license."

33 **SECTION 9.** Article 38 of Chapter 143 of the General Statutes is amended  
34 by adding a new section to read:

35 **"§ 143-355.4. Water system efficiency.**

36 (a) Local government water systems and large community water systems may  
37 require separate meters for new in-ground irrigation systems.

38 (b) To be eligible for State water infrastructure funds from the Drinking Water  
39 Revolving Fund or the Drinking Water Reserve Fund or any other grant or loan of funds  
40 allocated by the General Assembly whether the allocation of funds is to a State agency  
41 or to a nonprofit organization for the purpose of extending waterlines or expanding  
42 water treatment capacity, a local government or large community water system must  
43 demonstrate that the system:

- 1           (1)   Has established a water rate structure that is adequate to pay the cost of  
2           maintaining, repairing, and operating the system, including reserves  
3           for payment of principal and interest on indebtedness incurred for  
4           maintenance or improvement of the water system during periods of  
5           normal use and periods of reduced water use due to implementation of  
6           water conservation measures. The funding agency shall apply  
7           guidelines developed by the State Water Infrastructure Commission in  
8           determining the adequacy of the water rate structure to support  
9           operation and maintenance of the system.
- 10          (2)   Has implemented a leak detection and repair program.
- 11          (3)   Has an approved water supply plan pursuant to G.S. 143-355.
- 12          (4)   Meters all water use except for water use that is impractical to meter,  
13          including, but not limited to, use of water for firefighting and to flush  
14          waterlines.
- 15          (5)   Does not use a rate structure that gives residential water customers a  
16          lower per-unit water rate as water use increases.
- 17          (6)   Has evaluated the extent to which the future water needs of the water  
18          system can be met by reclaimed water.
- 19          (7)   Has implemented a consumer education program that emphasizes the  
20          importance of water conservation."

21          **SECTION 10.** Article 38 of Chapter 143 is amended by adding a new  
22 section to read:

23          "**§ 143-355.5. Water reuse; policy; rule making.**

24          (a)   Water Reuse Policy. – It is the public policy of the State that the reuse of  
25          treated wastewater or reclaimed water is critical to meeting the existing and future water  
26          supply needs of the State. The General Assembly finds that reclaimed water systems  
27          permitted and operated under G.S. 143-215.1(d2) in an approved wastewater reuse  
28          program can provide water for many beneficial purposes in a way that is both  
29          environmentally acceptable and protective of public health.

30          (b)   Rule Making. – The Commission shall encourage and promote safe and  
31          beneficial reuse of treated wastewater as an alternative to surface water discharge. The  
32          Commission shall adopt rules to:

- 33               (1)   Identify acceptable uses of reclaimed water, including toilet flushing,  
34               fire protection, decorative water features, and landscape irrigation.
- 35               (2)   Facilitate the permitting of reclaimed water systems.
- 36               (3)   Establish standards for reclaimed water systems that are adequate to  
37               prevent the direct distribution of reclaimed water as potable water."

38          **SECTION 11.** Article 38 of Chapter 143 of the General Statutes is amended  
39 by adding a new section to read:

40          "**§ 143-355.6. Enforcement.**

41          (a)   The Secretary may assess a civil penalty of not less than one hundred dollars  
42          (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

- 43               (1)   Fails to report water use or other information required under  
44               G.S. 143-355(k).



1           (2) Fails to act in accordance with the terms, conditions, or requirements  
2           of an order issued by the Secretary under G.S. 143-355.3.

3           (3) Violates any provision of this Article or any rule adopted by the  
4           Commission, the Department, or the Secretary implementing this  
5           Article.

6           (b) For each willful action or failure to act for which a penalty may be assessed  
7           under this section, the Secretary may consider each day the action or inaction continues  
8           after notice is given of the violation as a separate violation. A separate penalty may be  
9           assessed for each separate violation.

10          (c) The Secretary may assess a civil penalty of not more than ten thousand  
11          dollars (\$10,000) per month against a unit of local government that provides water  
12          service or a large community water system that fails to implement the water  
13          conservation measures set out in the water shortage response plan approved by the  
14          Department under G.S. 143-355.2, measures required by the Department under  
15          subsections (b) and (d) of G.S. 143-355.2, or the default measures required under rules  
16          adopted by the Commission under S.L. 2002-167. The amount of the civil penalty shall  
17          be based on the factors set out in G.S. 143B-282.1(b). The Secretary may remit a civil  
18          penalty based on the factors set out in G.S. 143B-282.1(c)(1).

19          (d) The violation of emergency water conservation rules adopted by the Secretary  
20          pursuant to G.S. 143-355.3(b) is a Class 1 misdemeanor.

21          (e) The Secretary shall notify any person assessed a civil penalty of the  
22          assessment and the specific reasons for the assessment by registered or certified mail or  
23          by any means authorized by G.S. 1A-1, Rule 4. Contested case petitions shall be filed  
24          within 30 days of receipt of the notice of assessment."

25          **SECTION 12.** Article 10 of Chapter 143 of the General Statutes is amended  
26          by adding a new section to read:

27          "**§ 130A-329. Reporting.**

28          Reports required to be submitted under this Article or under rules adopted by the  
29          Commission shall be submitted electronically on a form specified by the Department.  
30          The Department may waive the requirement for electronic submission of a report if the  
31          water system demonstrates that it lacks the technical capability to report electronically."

32          **SECTION 13.** G.S. 130A-335(a) reads as rewritten:

33          "(a) A person owning or controlling a residence, place of business or a place of  
34          public assembly shall provide an approved wastewater system. Except as may be  
35          allowed under another provision of law, all wastewater from water-using fixtures and  
36          appliances connected to a water supply source shall discharge to the approved  
37          wastewater system. A wastewater system may include components for collection,  
38          treatment and disposal of wastewater."

39          **SECTION 14.(a)** For purposes of this section, "gray water" means  
40          wastewater removed from household wash basins, bathtubs, and showers.

41          **SECTION 14.(b)** The Commission for Health Services shall adopt rules to  
42          authorize the use of gray water during periods of drought to hand water trees, shrubs,  
43          and inedible plants on single-family residential property. The rules shall encourage the  
44          use of gray water as provided in this section while protecting public health, safety,

1 welfare, and the environment. In developing the rules, the Commission shall review the  
2 provisions set out in subsection (c) of this section

3 **SECTION 14.(c)** Notwithstanding G.S. 130A-335(a), untreated gray water  
4 may be used in periods of drought to hand water trees, shrubs, and inedible plants on  
5 single-family residential property under the following conditions:

- 6 (1) Gray water shall be applied as soon as practicable. Untreated gray  
7 water should not be stored for later use.
- 8 (2) Gray water containing hazardous chemicals including, but not limited  
9 to, residue from solvents shall not be used.
- 10 (3) Use of untreated gray water is restricted to the residential property  
11 where the gray water originates. Untreated gray water shall not be  
12 allowed to run off onto adjoining property, roadways, or into drainage  
13 features such as ditches and storm drains.
- 14 (4) Untreated gray water shall be applied using buckets, watering cans, or  
15 other handheld containers. Gray water may not be used in an irrigation  
16 system unless the gray water has been treated in accordance with  
17 standards set out in the State Plumbing Code.
- 18 (5) Gray water shall not be applied closer than 100 feet to surface waters  
19 or a water supply well.

20 **SECTION 15.** G.S. 159G-23 reads as rewritten:

21 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or**  
22 **Drinking Water Reserve.**

23 The criteria in this section apply to a loan or grant from the Wastewater Reserve or  
24 the Drinking Water Reserve. The Division of Water Quality and the Division of  
25 Environmental Health must each establish a system of assigning points to applications  
26 based on the following criteria:

- 27 (1) Public necessity. – An applicant must explain how the project  
28 promotes public health and protects the environment. A project that  
29 improves a system that is not in compliance with permit requirements  
30 or is under orders from the Department, enables a moratorium to be  
31 lifted, or replaces failing septic tanks with a wastewater collection  
32 system has priority.
- 33 (2) Effect on impaired waters. – A project that improves designated  
34 impaired waters of the State has priority.
- 35 (3) Efficiency. – A project that achieves efficiencies in meeting the State's  
36 water infrastructure needs or reduces vulnerability to drought  
37 consistent with Part 2A of Article 21 of Chapter 143 of the General  
38 Statutes by one of the following methods has priority:
  - 39 a. The combination of two or more wastewater or public water  
40 systems into a regional wastewater or public water system by  
41 merger, consolidation, or another means.
  - 42 b. Conservation or reuse of ~~water~~ water, including bulk water  
43 reuse facilities and waterlines to supply reuse water for  
44 irrigation and other approved uses.

- 1           c.     Construction of an interconnection between water systems  
2                 intended for use in drought or other water shortage emergency.  
3           d.     Repair or replacement of leaking waterlines.  
4           e.     Replacement of meters and installation of new metering  
5                 systems.
- 6           (4)    Comprehensive land-use plan. – A project that is located in a city or  
7                 county that has adopted or has taken significant steps to adopt a  
8                 comprehensive land-use plan under Article 18 of Chapter 153A of the  
9                 General Statutes or Article 19 of Chapter 160A of the General Statutes  
10                has priority over a project located in a city or county that has not  
11                adopted a plan or has not taken steps to do so. The existence of a plan  
12                has more priority than steps taken to adopt a plan, such as adoption of  
13                a zoning ordinance. A plan that exceeds the minimum State standards  
14                for protection of water resources has more priority than one that does  
15                not. A project is considered to be located in a city or county if it is  
16                located in whole or in part in that unit. A land-use plan is not  
17                considered a comprehensive land-use plan unless it has provisions that  
18                protect existing water uses and ensure compliance with water quality  
19                standards and classifications in all waters of the State affected by the  
20                plan.
- 21           (5)    Flood hazard ordinance. – A project that is located in a city or county  
22                 that has adopted a flood hazard prevention ordinance under  
23                 G.S. 143-215.54A has priority over a project located in a city or  
24                 county that has not adopted an ordinance. A plan that exceeds the  
25                 minimum standards under G.S. 143-215.54A for a flood hazard  
26                 prevention ordinance has more priority than one that does not. A  
27                 project is considered to be located in a city or county if it is located in  
28                 whole or in part in that unit. If no part of the service area of a project is  
29                 located within the 100-year floodplain, the project has the same  
30                 priority under this subdivision as if it were located in a city or county  
31                 that has adopted a flood hazard prevention ordinance. The most recent  
32                 maps prepared pursuant to the National Flood Insurance Program or  
33                 approved by the Department determine whether an area is within the  
34                 100-year floodplain.
- 35           (6)    Sound management. – A project submitted by a local government unit  
36                 that has demonstrated a willingness and ability to meet its  
37                 responsibilities through sound fiscal policies and efficient operation  
38                 and management has priority.
- 39           (7)    Capital improvement plan. – A project that implements the applicant's  
40                 capital improvement plan for the wastewater system or public water  
41                 system it manages has priority over a project that does not implement a  
42                 capital improvement plan. To receive priority, a capital improvement  
43                 plan must set out the applicant's expected water infrastructure needs  
44                 for at least 10 years.

- 1 (8) Coastal habitat protection. – A project that implements a  
2 recommendation of a Coastal Habitat Protection Plan adopted by the  
3 Environmental Management Commission, the Coastal Resources  
4 Commission, and the Marine Fisheries Commission pursuant to  
5 G.S. 143B-279.8 has priority over other projects that affect counties  
6 subject to that Plan."

7 **SECTION 16.** G.S. 143-355.1 reads as rewritten:

8 **"§ 143-355.1. Drought Management Advisory Council; drought advisories.**

9 (a) The Department shall establish a Drought Management Advisory Council.  
10 The purposes of the Council are:

- 11 (1) To improve coordination among local, State, and federal agencies;  
12 public water systems, as defined in G.S. 130A-313(10); and water  
13 users to improve the management and mitigation of the harmful effects  
14 of drought.  
15 (2) To provide consistent and accurate information ~~to the public about~~  
16 ~~drought conditions on drought conditions in the State to the U.S.~~  
17 Drought Monitor, the Environmental Management Commission, the  
18 Secretary, the Environmental Review Commission, and the public.

19 (b) The Department shall invite each of the following organizations to designate  
20 a representative to serve on the Council:

- 21 (1) North Carolina Cooperative Extension Service.  
22 (2) State Climate Office at North Carolina State University.  
23 (3) Public Staff of the Utilities Commission.  
24 (4) Wildlife Resources Commission.  
25 (5) Department of Agriculture and Consumer Services.  
26 (6) Department of Commerce.  
27 (7) Department of Crime Control and Public Safety.  
28 (8) National Weather Service of the National Oceanic and Atmospheric  
29 Administration of the United States Department of Commerce.  
30 (9) United States Geological Survey of the United States Department of  
31 the Interior.  
32 (10) United States Army Corps of Engineers.  
33 (11) United States Department of Agriculture.  
34 (12) Federal Emergency Management Agency of the United States  
35 Department of Homeland Security.  
36 (13) North Carolina League of Municipalities.  
37 (14) North Carolina Association of County Commissioners.  
38 (15) North Carolina Utilities Commission.  
39 (16) North Carolina Ground Water Association.  
40 (17) North Carolina Farm Bureau.  
41 (18) The Conservation Council of North Carolina.  
42 (19) The North Carolina Environmental Defense Fund.  
43 (20) The North Carolina Chapter of the Sierra Club.

1       **(b1)** Representatives designated under subsection (b) of this section shall have  
2 expertise or responsibility in meteorology, groundwater and surface water hydrology,  
3 water system operation and management, reservoir management, emergency response,  
4 or another subject area related to assessment and management of drought impacts.

5       (c) The Department shall also invite other agencies and organizations that  
6 represent water users, including local governments, agriculture, agribusiness, forestry,  
7 manufacturing, investor-owned water utilities regulated by the North Carolina Utilities  
8 Commission, and others as appropriate, to designate a representative to serve on the  
9 Council or to participate in the work of the Council with respect to particular drought  
10 related issues.

11       (d) The Department shall designate an employee of the Department to serve as  
12 Chair of the Council. The Council shall meet at least once in each calendar year in order  
13 to maintain appropriate agency readiness and participation. In addition, the Council  
14 shall meet on the call of the Chair to respond to drought conditions. The provisions of  
15 Article 33C of this Chapter apply to meetings of the Council.

16       (e) In order to provide accurate and consistent information to assist ~~local~~  
17 governments State agencies, local governments, and other water users in taking  
18 appropriate drought response actions, the Council may issue drought advisories that  
19 designate:

- 20           (1) Specific areas of the State in which drought conditions are impending.
- 21           (2) Specific areas of the State that are suffering from drought conditions.
- 22           (3) The level of severity of drought ~~conditions,~~ conditions based on the  
23 drought categories used in the U.S. Drought Monitor or the drought  
24 designation approved by the Secretary under subsection (f) of this  
25 section.

26       (f) Drought designations by the U.S. Drought Monitor shall be the default  
27 designations for drought advisories issued under subsection (e) of this section. The  
28 Council shall publish those drought designations for each county. If more than one  
29 drought designation applies to a county, the drought designation for the county shall be  
30 the highest drought designation that applies to at least twenty-five percent (25%) of the  
31 land area of the county. The Council may recommend a drought designation for a  
32 county that is different from the designation based on the U.S. Drought Monitor if the  
33 U.S. Drought Monitor does not accurately reflect localized conditions because of  
34 differences in scale or because the U.S. Drought Monitor does not consider one or more  
35 of the indicators of drought identified in this subsection. ~~In making a determination of~~  
36 any of the drought designations described in subsection (e) of this section,  
37 In recommending a drought designation that differs from the U.S. Drought Monitor  
38 designation, the Council shall consider stream flows, ground water levels, the amount of  
39 water stored in reservoirs, weather forecasts, the time of year, and other factors that are  
40 relevant to determining the location and severity of drought conditions.

41       **(f1)** The Secretary shall accept the Council's recommendation to adopt a drought  
42 designation for a county that is different from the designation based on the U.S. Drought  
43 Monitor if the Secretary finds that the indicators of drought identified by the Council

1 under subsection (f) of this section support the designation recommended by the  
2 Council.

3 (g) The Council shall report on the implementation of this section to the  
4 Secretary, the Governor, and the Environmental Review Commission no later than 1  
5 October of each year. The report shall include a review of drought advisories issued by  
6 the Council and any recommendations to improve coordination among local, State, and  
7 federal agencies; public water systems; and water users to improve the management and  
8 mitigation of the harmful effects of drought."

9 **SECTION 17.** The State Water Infrastructure Commission, in consultation  
10 with the Department of Environment and Natural Resources, the School of Government  
11 at the University of North Carolina at Chapel Hill, the North Carolina Utilities  
12 Commission, the Public Staff of the North Carolina Utilities Commission, and the Local  
13 Government Commission, shall develop guidelines for water rate structures that are  
14 adequate to pay the cost of maintaining, repairing, and operating the system, including  
15 payment of principal and interest on indebtedness incurred for maintenance or  
16 improvement of the water system. The guidelines shall also consider the effect of water  
17 rates on water conservation and recommend rate structures that support water  
18 conservation. Copies of the guidelines shall be made available to the Department of  
19 Environment and Natural Resources, the North Carolina Utilities Commission, and to  
20 all local government water systems and large community water systems, as defined in  
21 G.S. 143-350. The Commission shall report to the Environmental Review Commission  
22 on its progress in developing the guidelines no later than January 1, 2009.

23 **SECTION 18.** The Department of Environment and Natural Resources shall  
24 develop recommendations, in consultation with the technical working group that  
25 consists of scientists from the University of North Carolina and industry experts, for  
26 water efficiency standards for water-using fixtures in residential and commercial  
27 building and in-ground irrigation systems. The Department shall also develop  
28 recommendations for efficient metering of water use by local government and large  
29 community water systems. The Department shall submit its recommendations to the  
30 Commissioner of Insurance, the Chair of the Building Code Council, and the  
31 Environmental Review Commission no later than January 1, 2009.

32 **SECTION 19.(a)** Article 1 of Chapter 47C of the General Statutes is  
33 amended by adding a new section to read:

34 "**§ 47C-3-122. Irrigation of landscaping.**

35 Notwithstanding any provision in any declaration of covenants, no requirement to  
36 irrigate landscaping shall be construed to:

- 37 (1) Require the irrigation of landscaping, during any period in which the  
38 U.S. Drought Monitor, as defined in G.S. 143-350, or the Secretary of  
39 Environment and Natural Resources has designated an area in which  
40 the association is located as an area of severe, extreme, or exceptional  
41 drought and the Governor, a State agency, or unit of local government  
42 has imposed water conservation measures applicable to the area  
43 unless:

1 a. For covenants registered prior to October 1, 2008, the covenant  
 2 specifically requires the irrigation of landscaping  
 3 notwithstanding water conservation measures imposed by the  
 4 Governor, a State agency, or unit of local government. The  
 5 association may not fine or otherwise penalize an owner of land  
 6 for violation of an irrigation requirement during a period of  
 7 drought as designated under this subdivision, unless the  
 8 covenant specifically authorizes fines or other penalties.

9 b. For covenants registered on or after October 1, 2008, the  
 10 covenant must specifically state that any requirement to irrigate  
 11 landscaping is suspended to the extent the requirement would  
 12 otherwise be prohibited during any period in which the  
 13 Governor, a State agency, or unit of local government has  
 14 imposed water conservation measures. The association may not  
 15 fine or otherwise penalize an owner of land for violation of an  
 16 irrigation requirement during a drought designated under this  
 17 subdivision, unless the covenant authorizes the fines or other  
 18 penalties. This authorization must be written on the first page of  
 19 the covenant in print that is in boldface type, capital letters, and  
 20 no smaller than the largest print used elsewhere in the  
 21 declarations of covenants.

22 (2) For purposes of this section, the term "landscaping" includes lawns,  
 23 trees, shrubbery, and other ornamental or decorative plants."

24 **SECTION 19.(b)** Article 3 of Chapter 47F of the General Statutes is  
 25 amended by adding a new section to read:

26 **"§ 47F-3-122. Irrigation of landscaping.**

27 Notwithstanding any provision in any declaration of covenants, no requirement to  
 28 irrigate landscaping shall be construed to:

29 (1) Require the irrigation of landscaping, during any period in which the  
 30 U.S. Drought Monitor, as defined in G.S. 143-350, or the Secretary of  
 31 Environment and Natural Resources has designated an area in which  
 32 the association is located as an area of severe, extreme, or exceptional  
 33 drought and the Governor, a State agency, or unit of local government  
 34 has imposed water conservation measures applicable to the area  
 35 unless:

36 a. For declarations of covenants registered prior to October 1,  
 37 2008, the covenant specifically requires the irrigation of  
 38 landscaping notwithstanding water conservation measures  
 39 imposed by the Governor, a State agency, or unit of local  
 40 government. The association may not fine or otherwise penalize  
 41 an owner of land for violation of an irrigation requirement  
 42 during a period of a drought as designated under this  
 43 subdivision, unless the covenant specifically authorizes fines or  
 44 other penalties.

1           b.     For covenants registered on or after October 1, 2008, the  
2           covenant must specifically state that any requirement to irrigate  
3           landscaping is suspended to the extent the requirement would  
4           otherwise be prohibited during any period in which the  
5           Governor, a State agency, or unit of local government has  
6           imposed water conservation measures. The association may not  
7           fine or otherwise penalize an owner of land for violation of an  
8           irrigation requirement during a drought designated under this  
9           subdivision, unless the covenant authorizes the fines or other  
10          penalties. This authorization must be written on the first page of  
11          the covenant in print that is in boldface type, capital letters, and  
12          no smaller than the largest print used elsewhere in the  
13          declarations of covenants.

14          (2)     For purposes of this section, the term "landscaping" includes lawns,  
15          trees, shrubbery, and other ornamental or decorative plants."

16          **SECTION 19.1.** For purposes of this section, "contamination of drinking  
17 water" means any exceedance of the drinking water standards adopted by the United  
18 States Environmental Protection Agency pursuant to the federal Safe Drinking Water  
19 Act or by the drinking water standards adopted by the Commission for Health Services  
20 pursuant to Article 10 of Chapter 130A of the General Statutes. It is the intent of the  
21 General Assembly that the Department of Environment and Natural Resources  
22 aggressively compel persons who are responsible for contamination of groundwater that  
23 results in contamination of drinking water to assess and remediate the groundwater  
24 contamination as required by law.

25          **SECTION 20.** Sections 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, and 20  
26 of this act are effective when this act becomes law. Water Shortage Response Plans  
27 revised to comply with G.S. 143-355.2, as enacted by Section 5 of this act, shall be  
28 submitted no later than 1 July 2009. Subsection (c) of Section 14 of this act expires  
29 when rules adopted pursuant to subsection (b) of Section 14 of this act become  
30 effective. Sections 1, 2, and 19 of this act become effective 1 October 2008. Section 11  
31 of this act becomes effective 1 December 2008 and applies to offenses committed on or  
32 after that date. Section 9 of this act becomes effective 1 July 2009.