

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2499*
Committee Substitute Favorable 7/8/08
Third Edition Engrossed 7/15/08
Senate Agriculture/Environment/Natural Resources Committee Substitute
Adopted 7/16/08

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.

1 (b1) Subsections (a) and (b) of this section shall not apply to a person who
2 withdraws or transfers less than 1,000,000 gallons per day of water for activities directly
3 related or incidental to the production of crops, fruits, vegetables, ornamental and
4 flowering plants, dairy products, livestock, poultry, and other agricultural
5 ~~products.~~ products, or to the creation or maintenance of waterfowl impoundments.

6 (b2) Registration of a withdrawal or transfer of water under this section or
7 information that is provided by a water user pursuant to G.S. 106-24 and authorized for
8 release to the Commission by the individual water user may be used as evidence of
9 historic water use in the event that it becomes necessary or desirable to allocate
10 available water resources among specific classes, persons, or individuals who use water
11 resources.

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

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

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

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

39 **"§ 106-24. Collection and publication of information relating to agriculture;**
40 **cooperation.**

41 (a) The Department of Agriculture and Consumer Services shall collect, compile,
42 systematize, tabulate, and publish statistical information relating to agriculture. The
43 Department is authorized to use sample surveys to collect primary data relating to
44 agriculture. The Department is authorized to cooperate with the United States

1 Department of Agriculture and the several boards of county commissioners of the State,
2 to accomplish the purpose of this Part.

3 (b) The Department of Agriculture and Consumer Services shall annually collect
4 information on water use by persons who withdraw 10,000 gallons per day or more of
5 water from the surface or groundwater sources of the State for activities directly related
6 or incidental to the production of crops, fruits, vegetables, ornamental and flowering
7 plants, dairy products, livestock, poultry, and other agricultural products. The
8 information shall be collected by survey conducted pursuant to subsection (a) of this
9 section and in accordance with Title 7 United States Code Section 2276 (Confidential
10 Information Protection and Statistical Efficiency Act). The Department shall develop
11 the survey form in consultation with the Department of Environment and Natural
12 Resources. The Department shall report the results of the water use survey to the
13 Environmental Review Commission no later than 1 July of each year and shall provide a
14 copy of the report to the Department of Environment and Natural Resources. The report
15 shall include recommendations about modifications to the survey, including changes in
16 the gallons per day threshold for water use data collection. The report shall provide
17 agricultural water use data by county. If the county is located in more than one river
18 basin, the report shall separate the county data to show agricultural water use by river
19 basin within the county. If publication of county or watershed data would result in
20 disclosure of an individual operation's water use, the data will be combined with data
21 from another county or watershed."

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

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

25 **"§ 143-350. Definitions.**

26 As used in this Article:

- 27 (1) "Commission" means the Environmental Management Commission.
28 (2) "Department" means the Department of Environment and Natural
29 Resources.
30 (3) "Essential water use" means the use of water necessary for firefighting,
31 health, and safety; water needed to sustain human and animal life; and
32 water necessary to satisfy federal, State, and local laws for the
33 protection of public health, safety, welfare, the environment, and
34 natural resources; and a minimum amount of water necessary to
35 maintain the economy of the State, region, or area.
36 (4) "Large community water system" means a community water system,
37 as defined in G.S. 130A-313(10), that regularly serves 1,000 or more
38 service connections or 3,000 or more individuals.
39 (5) "Unit of local government" means a county, city, consolidated
40 city-county, sanitary district, or other local political subdivision or
41 authority or agency of local government.
42 (6) "U.S. Drought Monitor" means the national drought map that
43 designates areas of drought using the following categories
44 D0-Abnormally Dry, D1-Moderate, D2-Severe, D3-Extreme, and

1 D4-Exceptional. The U.S. Drought Monitor is developed and
 2 maintained by the Joint Agricultural Weather Facility, the Climate
 3 Prediction Center, the National Climatic Data Center, and the National
 4 Drought Mitigation Center with input from the United States
 5 Geological Survey, the National Water and Climate Center, the
 6 Climate Diagnostics Center, the National Weather Service, state
 7 climatologists, and state water resource agencies.

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

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

14 **"§ 143-354. Ordinary powers and duties of the Commission.**

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

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

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

24 ~~(3) The Commission, based on information available, shall notify any~~
 25 ~~municipality or other governmental unit of potential water shortages or~~
 26 ~~emergencies foreseen by the Commission affecting the water supply of~~
 27 ~~such municipality or unit together with the Commission's~~
 28 ~~recommendations for restricting and conserving the use of water or~~
 29 ~~increasing the water supply by or in such municipality or unit. Failure~~
 30 ~~reasonably to follow such recommendations shall make such~~
 31 ~~municipality or other governmental unit ineligible to receive any~~
 32 ~~emergency diversion of waters as hereinafter provided.~~

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

35 (5) Recognizing the complexity and difficulties attendant upon the
 36 recommendation of the General Assembly of fair and beneficial
 37 legislation affecting the use and conservation of water, the
 38 Commission shall solicit from the various water interests of the State
 39 their suggestions thereon.

40 (6) The Commission may hold public hearings for the purpose of
 41 obtaining evidence and information and permitting discussion relative
 42 to water resources legislation and shall have the power to subpoena
 43 witnesses therefor.

- 1 (7) All recommendations for proposed legislation made by the
2 Commission shall be available to the public.
- 3 (8) The Commission shall adopt such rules and regulations as may be
4 necessary to carry out the purposes of this Article.
- 5 (9) Any member of the Commission or any person authorized by it, shall
6 have the right to enter upon any private or public lands or waters for
7 the purpose of making investigations and studies reasonably necessary
8 in the gathering of facts concerning streams and watersheds, subject to
9 responsibility for any damage done to property entered.
- 10 (10) The Commission is authorized to provide to federal agencies the
11 required assurances, subject to availability of appropriations by the
12 General Assembly or applicable funds or assurances from local
13 governments, of nonfederal cooperation for water supply storage and
14 other congressionally authorized purposes in federal projects.
- 15 (11) The Commission is authorized to assign or transfer to any county or
16 municipality or other local government having a need for water supply
17 storage in federal projects any interest held by the State in such
18 storage, upon the assumption of repayment obligation therefor, or
19 compensation to the State, by such local government. The Commission
20 shall also have the authority to reassign or transfer interests in such
21 storage held by local governments, if indicated by the investigation of
22 needs made pursuant to subdivision (1) of subsection (a)(1)(a) of this
23 section, subject to equitable adjustment of financial responsibility.

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

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

- 42 (1) ~~To authorize any county, city or town in which an emergency has been~~
43 ~~declared to divert water in the emergency area sufficient to take care of~~
44 ~~the needs of human consumption, necessary sanitation and public~~

1 safety. Provided, however, there shall be no diversion of waters from
2 any stream or body of water pursuant to this Article unless the person
3 controlling the water or sewerage system into which such waters are
4 diverted shall first have limited and restricted the use of water in such
5 water or sewerage system to human consumption, necessary sanitation
6 and public safety and shall have effectively enforced such restrictions.
7 Diversion of waters shall cease upon the termination of the water
8 emergency or upon the finding of the Commission that the person
9 controlling the water or sewerage system using diverted waters has
10 failed to enforce effectively the restrictions on use to human
11 consumption and necessary sanitation and public safety. In the event
12 waters are diverted pursuant to this Article, there shall be no diversion
13 to the same person in any subsequent year unless the Commission
14 finds as fact from evidence presented that the person controlling the
15 water or sewerage system has made reasonable plans and acted with
16 due diligence pursuant thereto to eliminate future emergencies by
17 adequately enlarging such person's own water supply.

18 (2) ~~To make such reasonable rules and regulations governing the~~
19 ~~conservation and use of diverted waters within the emergency area as~~
20 ~~shall be necessary for the health and safety of the persons who reside~~
21 ~~within the emergency area; and the violation of such rules and~~
22 ~~regulations during the period of the emergency shall constitute a Class~~
23 ~~1 misdemeanor; provided, however, that before such rules and~~
24 ~~regulations shall become effective, they shall be published in not less~~
25 ~~than two consecutive issues of not less than one newspaper generally~~
26 ~~circulated in the emergency area.~~

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

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

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

1 **"§ 143-355.2. Water conservation measures for drought.**

2 (a) Each unit of local government that provides public water service and each
3 large community water system shall develop and implement water conservation
4 measures to respond to drought or other water shortage conditions as provided in this
5 section. Pursuant to G.S. 143-355(1), water conservation measures to respond to drought
6 or other water shortage conditions shall be set out in a water shortage response plan and
7 submitted to the Department for review and approval. The Department shall approve the
8 water shortage response plan if the plan meets all of the following criteria:

9 (1) The plan includes tiered levels of water conservation measures or other
10 response actions based on the severity of water shortage conditions.

11 (2) Each tier of water conservation measures shall be based on increased
12 severity of drought or water shortage conditions and will result in more
13 stringent water conservation measures.

14 (3) All other requirements of rules adopted by the Commission pursuant to
15 S.L. 2002-167.

16 (b) The Department may require a unit of local government that provides public
17 water service or a large community water system to implement the more stringent water
18 conservation measures described in subsection (d) of this section if the Department
19 makes written findings that any county, as determined by subsection (e) of this section,
20 in which the source of water for the public water system operated by the unit of local
21 government or by a large community water system is in:

22 (1) Severe, extreme, or exceptional drought, and the Department finds all
23 of the following:

24 a. The unit of local government that provides water service or
25 large community water system has not begun implementation of
26 any level of water conservation measures set out in the water
27 shortage response plan.

28 b. Implementation of measures is necessary to minimize the
29 harmful impacts of drought on public health, safety, and the
30 environment, including the potential impacts of drought or other
31 water shortage on interconnected water systems and other water
32 systems withdrawing from the same water source, or

33 (2) Extreme or exceptional drought, and the Department finds that the unit
34 of local government that provides water service or large community
35 water system has implemented the measures required under the water
36 shortage response plan for the appropriate tier of water conservation
37 measure for 30 days or more and that implementation of the measures
38 required has not reduced water use in an amount sufficient to minimize
39 the harmful impacts of drought on public health, safety, and the
40 environment, including the potential impact of drought or other water
41 shortage on interconnected water systems and other water systems
42 withdrawing from the same water source.

43 (c) In making the findings required under subsection (b) of this section, the
44 Department shall consider the:

- 1 (1) Hydrological drought conditions.
- 2 (2) Drought forecast.
- 3 (3) Reductions in water use achieved under water conservation measures
4 in effect.
- 5 (4) Availability of other water supply sources and other indicators of the
6 extent and severity of drought impacts.
- 7 (5) Economic impacts on the community to implement more stringent
8 water conservation measures.
- 9 (6) Conservation measures of all registered water withdrawals within the
10 same 8 digit hydrologic unit code established by the U.S. Geological
11 Survey to the extent the Department is able to document those
12 measures.

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

25 (e) For purposes of this section, the drought designation for an area shall be the
26 U.S. Drought Monitor designation for the county in which the water source is located as
27 published by the Drought Management Advisory Council. The Secretary may approve a
28 county drought designation that is different from the U.S. Drought Monitor designation
29 pursuant to G.S. 143-355.1(f1). If the water source is located in more than one county
30 and the counties have different drought designations, the Council shall recommend to
31 the Secretary the drought designation to be applied to water systems that withdraw
32 water from the water source. The recommendation of the Council shall be based on the
33 drought indicators identified in G.S. 143-355.1(f) as applied to the water source.

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

38 (g) A unit of local government that provides water service or a large community
39 water system that does not have an approved water shortage response plan shall
40 implement the default water conservation measures specified in subsection (f) of this
41 section within 10 days following a drought designation that requires implementation of
42 water conservation measures. A water shortage response plan is presumed to be
43 approved until the Department notifies the unit of local government or large community
44 water system that the plan has been disapproved. A unit of local government that

1 provides public water service and a large community water system shall be deemed to
2 be in compliance with this section if, within 10 days after water shortage conditions
3 identified in the plan require implementation of water conservation measures, the water
4 system begins implementation of the water conservation measures required by the plan.

5 (h) Water conservation measures imposed by a unit of local government that
6 provides public water service or by a large community water system may be more
7 stringent than the minimum water conservation measures required under this section.

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

30 (3) Adopt rules governing conservation and use of water within the
31 service area of the water system from which water is being diverted as
32 shall be necessary to maintain essential water uses in the system while
33 supplying water to the water shortage emergency area.

34 (c) Temporary Rights-of-Way. – A water system that is affected by a water
35 shortage emergency is authorized to lay necessary temporary waterlines for the period
36 of a declared water shortage emergency across, under, or above any and all properties to
37 connect the water system experiencing a water shortage emergency to an emergency
38 intake in a new water source or to interconnect the water system to a supplying water or
39 wastewater system without first acquiring right-of-way. The Department shall expedite
40 the approval of temporary waterlines needed to provide emergency water supply under
41 this section. Temporary waterlines installed under this section shall be removed within
42 90 days following the end of the emergency period except that the Secretary may, for
43 good cause, authorize a 30-day extension.

1 (d) Compensation for Water Allocated During Water Shortage Emergency and
2 Temporary Rights-of-Way. – Whenever the Secretary, pursuant to this Article, has
3 ordered any diversion of water, the receiving water or wastewater system shall
4 reimburse the supplying water system for the cost of the water. The cost charged to the
5 receiving system shall not exceed one hundred ten percent (110%) of the retail cost that
6 would be charged to a customer of the supplying system for an equivalent amount of
7 water and any additional costs incurred by the supplying system for alterations to its
8 infrastructure or water treatment to effectuate the diversion except as provided under an
9 interlocal agreement. Unless liability is otherwise assigned in an interlocal agreement,
10 the receiving water system shall be liable to all persons suffering any loss or damage
11 caused by or resulting from the laying of temporary waterlines to effectuate the
12 diversion. Within 10 days of placing the temporary waterlines, the water system that is
13 liable shall institute a civil action in accordance with the procedures set out under
14 Article 9 of Chapter 136 of the General Statutes to compensate the property owners for
15 any taking caused by or resulting from the laying of temporary waterlines, with the
16 water system that is liable having the role of the Department of Transportation and the
17 governing board of the water system that is liable having the role of the Secretary of
18 Transportation under Article 9 of Chapter 136 of the General Statutes. The placing of
19 temporary waterlines pursuant to this section is not subject to the provisions of
20 G.S. 153A-15.

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

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

30 **"§ 143-355.4. Water system efficiency.**

31 (a) Local government water systems and large community water systems shall
32 require separate meters for new in-ground irrigation systems that are connected to their
33 systems.

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

- 40 (1) Has established a water rate structure that is adequate to pay the cost of
41 maintaining, repairing, and operating the system, including reserves
42 for payment of principal and interest on indebtedness incurred for
43 maintenance or improvement of the water system during periods of
44 normal use and periods of reduced water use due to implementation of

1 water conservation measures. The funding agency shall apply
2 guidelines developed by the State Water Infrastructure Commission in
3 determining the adequacy of the water rate structure to support
4 operation and maintenance of the system.

5 (2) Has implemented a leak detection and repair program.

6 (3) Has an approved water supply plan pursuant to G.S. 143-355.

7 (4) Meters all water use except for water use that is impractical to meter,
8 including, but not limited to, use of water for firefighting and to flush
9 waterlines.

10 (5) Does not use a rate structure that gives residential water customers a
11 lower per-unit water rate as water use increases.

12 (6) Has evaluated the extent to which the future water needs of the water
13 system can be met by reclaimed water.

14 (7) Has implemented a consumer education program that emphasizes the
15 importance of water conservation."

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

18 "**§ 143-355.5. Water reuse; policy; rule making.**

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

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

28 (1) Identify acceptable uses of reclaimed water, including toilet flushing,
29 fire protection, decorative water features, and landscape irrigation.

30 (2) Facilitate the permitting of reclaimed water systems.

31 (3) Establish standards for reclaimed water systems that are adequate to
32 prevent the direct distribution of reclaimed water as potable water."

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

35 "**§ 143-355.6. Enforcement.**

36 (a) The Secretary may assess a civil penalty of not less than one hundred dollars
37 (\$100.00) nor more than five hundred dollars (\$500.00) against any person who:

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

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

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

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

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

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

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

20 **SECTION 12.** Article 10 of Chapter 130A of the General Statutes is
21 amended by adding a new section to read:

22 **"§ 130A-329. Reporting.**

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

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

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

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

36 **SECTION 14.(b)** The Commission for Health Services shall adopt rules to
37 authorize the use of gray water during periods of drought to hand water trees, shrubs,
38 and inedible plants on single-family residential property. The rules shall encourage the
39 use of gray water as provided in this section while protecting public health, safety,
40 welfare, and the environment. In developing the rules, the Commission shall review the
41 provisions set out in subsection (c) of this section.

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

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

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

16 **"§ 159G-23. Common criteria for loan or grant from Wastewater Reserve or**
17 **Drinking Water Reserve.**

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

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

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

1 G.S. 143B-279.8 has priority over other projects that affect counties
2 subject to that Plan."

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

4 **"§ 143-355.1. Drought Management Advisory Council; drought advisories.**

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

7 (1) To improve coordination among local, State, and federal agencies;
8 public water systems, as defined in G.S. 130A-313(10); and water
9 users to improve the management and mitigation of the harmful effects
10 of drought.

11 (2) To provide consistent and accurate information ~~to the public about~~
12 drought conditions on drought conditions in the State to the U.S.
13 Drought Monitor, the Environmental Management Commission, the
14 Secretary, the Environmental Review Commission, and the public.

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

17 (1) North Carolina Cooperative Extension Service.

18 (2) State Climate Office at North Carolina State University.

19 (3) Public Staff of the Utilities Commission.

20 (4) Wildlife Resources Commission.

21 (5) Department of Agriculture and Consumer Services.

22 (6) Department of Commerce.

23 (7) Department of Crime Control and Public Safety.

24 (8) National Weather Service of the National Oceanic and Atmospheric
25 Administration of the United States Department of Commerce.

26 (9) United States Geological Survey of the United States Department of
27 the Interior.

28 (10) United States Army Corps of Engineers.

29 (11) United States Department of Agriculture.

30 (12) Federal Emergency Management Agency of the United States
31 Department of Homeland Security.

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

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

42 (d) The Department shall designate an employee of the Department to serve as
43 Chair of the Council. The Council shall meet at least once in each calendar year in order
44 to maintain appropriate agency readiness and participation. In addition, the Council

1 shall meet on the call of the Chair to respond to drought conditions. The provisions of
2 Article 33C of this Chapter apply to meetings of the Council.

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

- 7 (1) Specific areas of the State in which drought conditions are impending.
- 8 (2) Specific areas of the State that are suffering from drought conditions.
- 9 (3) The level of severity of drought ~~conditions~~ conditions based on the
10 drought categories used in the U.S. Drought Monitor or the drought
11 designation approved by the Secretary under subsection (f) of this
12 section.

13 (f) Drought designations by the U.S. Drought Monitor shall be the default
14 designations for drought advisories issued under subsection (e) of this section. The
15 Council shall publish those drought designations for each county. If more than one
16 drought designation applies to a county, the drought designation for the county shall be
17 the highest drought designation that applies to at least twenty-five percent (25%) of the
18 land area of the county. The Council may recommend a drought designation for a
19 county that is different from the designation based on the U.S. Drought Monitor if the
20 U.S. Drought Monitor does not accurately reflect localized conditions because of
21 differences in scale or because the U.S. Drought Monitor does not consider one or more
22 of the indicators of drought identified in this subsection. In making a determination of
23 any of the drought designations described in subsection (e) of this section, In
24 recommending a drought designation that differs from the U.S. Drought Monitor
25 designation, the Council shall consider stream flows, ground water levels, the amount of
26 water stored in reservoirs, weather forecasts, the time of year, and other factors that are
27 relevant to determining the location and severity of drought conditions.

28 (f1) The Secretary shall accept the Council's recommendation to adopt a drought
29 designation for a county that is different from the designation based on the U.S. Drought
30 Monitor if the Secretary finds that the indicators of drought identified by the Council
31 under subsection (f) of this section support the designation recommended by the
32 Council.

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

39 **SECTION 17.** The State Water Infrastructure Commission, in consultation
40 with the Department of Environment and Natural Resources, the School of Government
41 at the University of North Carolina at Chapel Hill, the North Carolina Utilities
42 Commission, the Public Staff of the North Carolina Utilities Commission, and the Local
43 Government Commission, shall develop guidelines for water rate structures that are
44 adequate to pay the cost of maintaining, repairing, and operating the system, including

1 payment of principal and interest on indebtedness incurred for maintenance or
2 improvement of the water system. The guidelines shall also consider the effect of water
3 rates on water conservation and recommend rate structures that support water
4 conservation. Copies of the guidelines shall be made available to the Department of
5 Environment and Natural Resources, the North Carolina Utilities Commission, and to
6 all local government water systems and large community water systems, as defined in
7 G.S. 143-350. The Commission shall report to the Environmental Review Commission
8 on its progress in developing the guidelines no later than January 1, 2009.

9 **SECTION 18.** The Department of Environment and Natural Resources shall
10 develop recommendations, in consultation with the technical working group that
11 consists of scientists from the University of North Carolina and industry experts, for
12 water efficiency standards for water-using fixtures in residential and commercial
13 building and in-ground irrigation systems. The Department shall also develop
14 recommendations for efficient metering of water use by local government and large
15 community water systems. The Department shall submit its recommendations to the
16 Commissioner of Insurance, the Chair of the Building Code Council, and the
17 Environmental Review Commission no later than January 1, 2009.

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

20 "**§ 47C-3-122. Irrigation of landscaping.**

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

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

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

38 b. For covenants registered on or after October 1, 2008, the
39 covenant must specifically state that any requirement to irrigate
40 landscaping is suspended to the extent the requirement would
41 otherwise be prohibited during any period in which the
42 Governor, a State agency, or unit of local government has
43 imposed water conservation measures. The association may not
44 fine or otherwise penalize an owner of land for violation of an

1 irrigation requirement during a drought designated under this
2 subdivision, unless the covenant authorizes the fines or other
3 penalties. This authorization must be written on the first page of
4 the covenant in print that is in boldface type, capital letters, and
5 no smaller than the largest print used elsewhere in the
6 declarations of covenants.

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

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

11 **"§ 47F-3-122. Irrigation of landscaping.**

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

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

21 a. For declarations of covenants registered prior to October 1,
22 2008, the covenant specifically requires the irrigation of
23 landscaping notwithstanding water conservation measures
24 imposed by the Governor, a State agency, or unit of local
25 government. The association may not fine or otherwise penalize
26 an owner of land for violation of an irrigation requirement
27 during a period of a drought as designated under this
28 subdivision, unless the covenant specifically authorizes fines or
29 other penalties.

30 b. For covenants registered on or after October 1, 2008, the
31 covenant must specifically state that any requirement to irrigate
32 landscaping is suspended to the extent the requirement would
33 otherwise be prohibited during any period in which the
34 Governor, a State agency, or unit of local government has
35 imposed water conservation measures. The association may not
36 fine or otherwise penalize an owner of land for violation of an
37 irrigation requirement during a drought designated under this
38 subdivision, unless the covenant authorizes the fines or other
39 penalties. This authorization must be written on the first page of
40 the covenant in print that is in boldface type, capital letters, and
41 no smaller than the largest print used elsewhere in the
42 declarations of covenants.

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

1 **SECTION 20.** Nothing in this act shall be construed to expand or limit the
2 authority of a unit of government or public water supply system to regulate water use
3 from a well located outside of its jurisdiction, a well not connected to its water system,
4 or any other private well.

5 **SECTION 21.** Sections 3, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15, 16, 17, 18, 20, and
6 21 of this act are effective when this act becomes law. Water Shortage Response Plans
7 revised to comply with G.S. 143-355.2, as enacted by Section 5 of this act, shall be
8 submitted no later than 1 July 2009. Subsection (c) of Section 14 of this act expires
9 when rules adopted pursuant to subsection (b) of Section 14 of this act become
10 effective. Sections 1, 2, and 19 of this act become effective 1 October 2008. Section 11
11 of this act becomes effective 1 December 2008 and applies to offenses committed on or
12 after that date. Section 9 of this act becomes effective 1 July 2009.