

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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SENATE BILL 1378\*

Environment & Natural Resources Committee Substitute Adopted 7/2/90

Short Title: Water Transfer Prohibited.

(Public)

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Sponsors:

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Referred to:

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May 24, 1990

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A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A MORATORIUM ON THE TRANSFER OF WATERS.

The General Assembly of North Carolina enacts:

Section 1. Except as provided in Section 2 of this act and notwithstanding the provisions of G.S. 153A-285, G.S. 153A-287, or any other provision of law, no entity whether public or private, or whether acting separately or jointly may divert any of the waters of this State, as defined in G.S. 143-212(6), from the basin of any named river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto for a use that will result in waters of this State being diverted from the basin of one named river to another.

Sec. 2. The prohibition in Section 1 of this act does not affect:

- (1) The diversion of waters from the basin of one named river to another where the actual diversion of waters lawfully began before the effective date of this act.
- (2) The diversion of waters from the basin of one named river to another if the diversion is authorized under a certificate or permit issued before the effective date of this act by the Environmental Management Commission as provided by G.S. 153A-285 and G.S. 162A-7, provided the diversion does not exceed the level authorized by the certificate or permit as issued before the effective date.
- (3) The diversion of waters from the basin of one named river to another if the diversion was included in the plans for a federal reservoir project

1 that received congressional approval before the effective date of this  
2 act but was not constructed before the effective date of this act.

3 (4) The diversion of waters from the basin of one named river to another if  
4 the diversion (i) was included in plans for a water treatment facility  
5 approved by the appropriate State agency, (ii) funds for the  
6 construction of such water treatment facility were approved in a bond  
7 referendum held prior to the effective date of this act, and (iii) the  
8 contracts for construction of the water treatment facility were executed  
9 prior to the effective date of this act.

10 (5) The diversion of waters from the basin of one named river to another  
11 where the diversion is in response to a substantial risk of water supply  
12 failure caused by low lake levels or streamflows, or in response to a  
13 water contamination or equipment failure emergency, provided that  
14 such diversions are limited to a maximum period of 140 days.

15 (6) The discharge of waters from the basin of one named river to another  
16 if the discharge is authorized under a permit issued before the effective  
17 date of this act by the Environmental Management Commission as  
18 provided by G.S. 143-215.1.

19 Sec. 3. The prohibition in Section 1 of this act does not affect the diversion  
20 of waters from the basin of one named river, the mainstream of which downstream  
21 from the point of the diversion is not located entirely in North Carolina, to the basin of  
22 another named river where the actual diversion of waters began before the effective date  
23 of this act.

24 Sec. 4. This act may not be construed to reflect legislative approval or  
25 disapproval of any transfer exempted herein.

26 Sec. 5. For purposes of this act the term "named river" shall mean any body  
27 of water bearing the designation "river" on the latest edition of the appropriate U.S.  
28 Geological Survey 7.5 minute quadrangle map.

29 Sec. 6. This act shall not be construed to obligate the General Assembly to  
30 appropriate any funds to implement the provisions of this act.

31 Sec. 7. This act is effective upon ratification and shall expire 1 July 1991.