

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 114*

Agriculture/Environment/Natural Resources Committee Substitute Adopted 4/3/97
House Committee Substitute Favorable 7/21/97

Short Title: Local Water Quality/LUST Cleanup.

(Public)

Sponsors:

Referred to:

February 17, 1997

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A FRAMEWORK FOR DEVELOPING AND IMPLEMENTING COOPERATIVE STATE-LOCAL WATER QUALITY PROTECTION PLANS FOR RIVER BASINS AND SEGMENTS OF RIVER BASINS AND TO EXPEDITE THE PERMANENT CLOSURE OF LOW-RISK SITES UNDER THE LEAKING PETROLEUM UNDERGROUND STORAGE TANK CLEANUP ACT OF 1988.

The General Assembly of North Carolina enacts:

Section 1. Part 1 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.14. Cooperative State-local coalition water quality protection plans.

(a) Definitions. – The following definitions apply in this section:

- (1) 'Basin' means a river basin as defined in G.S. 143-215.22G or any subbasin or segment thereof.
- (2) 'Coalition' means a water quality protection plan developed by a coalition of local governments for water quality protection of a basin.
- (3) 'Local government' means a city, county, special district, authority, or other political subdivision of the State.

1 (4) 'Water quality protection' means management of water use, quantity,
2 and quality.

3 (b) Legislative Findings. – This section establishes a framework to encourage
4 State-local pollutant reduction strategies for basins under the supervision and
5 coordination of the Commission. The General Assembly finds that:

6 (1) Water quality conditions and sources of water contamination may vary
7 from one basin to another.

8 (2) Water quality conditions and sources of water contamination may vary
9 within a basin.

10 (3) Some local governments have demonstrated greater capacity than others
11 to protect and improve water quality conditions.

12 (4) In some areas of the State artificial alteration of watercourses by surface
13 water impoundments or other means may have a significant effect on
14 water quality.

15 (5) Imposition of standard basinwide water quality protection requirements
16 and strategies may not equitably address the varying conditions and
17 needs of all areas.

18 (6) There is a need to develop distinct approaches to address water quality
19 protection in basins in the State, drawing upon the resources of local
20 governments and the State, under the supervision and coordination of
21 the Commission.

22 (c) Legislative Goals and Policies. – It is the goal of the General Assembly that, to
23 the extent practicable, the State shall adopt water quality protection plans that are
24 developed and implemented in cooperation and coordination with local governments and
25 that the State shall adopt water quality protection requirements that are proportional to
26 the relative contributions of pollution from all sources in terms of both the loading and
27 proximity of those sources. Furthermore, it is the goal of the General Assembly to
28 encourage and support State-local partnerships for improved water quality protection
29 through the provision of technical and financial assistance available through the Clean
30 Water Management Trust Fund, the Wetlands Restoration Fund, water quality planning
31 and project grant programs, the State's revolving loan and grant programs for water and
32 wastewater facilities, other funding sources, and future appropriations. The Commission
33 shall implement these goals in accordance with the standards, procedures, and
34 requirements set out in this section.

35 (d) The Commission may, as an alternative method of attaining water quality
36 standards in a basin, approve a coalition plan proposed by a coalition of local
37 governments whose territorial area collectively includes the affected basin in the manner
38 provided by this section. The Commission may approve a coalition plan proposed by a
39 coalition of local governments whose territorial area or water quality protection plan does
40 not include all of an affected basin if the Commission determines that the omission will
41 not materially affect water quality.

1 (e) A coalition of local governments choosing to propose a coalition plan to the
2 Commission shall do so through a nonprofit corporation the coalition of local
3 governments incorporates with the Secretary of State.

4 (f) The Commission may approve a coalition plan only if the Commission first
5 determines that:

6 (1) The basin under consideration is an appropriate unit for water quality
7 planning.

8 (2) The coalition plan meets the requirements of subsection (g) of this
9 section.

10 (3) The coalition of local governments has formed a nonprofit corporation
11 pursuant to subsection (e) of this section.

12 (4) The coalition plan has been approved by the governing board of each
13 local government that is a member of the coalition of local governments
14 proposing the coalition plan.

15 (5) The coalition plan will provide a viable alternative method of attaining
16 substantial compliance with water quality standards in the affected
17 basin.

18 (g) A coalition plan shall include all of the following:

19 (1) An assessment of water quality and related water quantity management
20 in the affected basin.

21 (2) A description of the goals and objectives for protection and
22 improvement of water quality and related water quantity management in
23 the affected basin.

24 (3) A workplan that describes proposed water quality protection strategies,
25 including point and nonpoint source programs, for achieving the
26 specified goals and objectives; an implementation strategy including
27 specified tasks, timetables for action, implementation responsibilities of
28 State and local agencies; and sources of funding, where applicable.

29 (4) A description of the performance indicators and benchmarks that will be
30 used to measure progress in achieving the specified goals and
31 objectives, and an associated monitoring framework.

32 (h) A coalition plan shall cover a three-year period. The coalition plan may
33 provide for the phasing in of specific strategies, tasks, or mechanisms by specified dates
34 within the three-year period. The Commission may enter into a memorandum of
35 understanding with any coalition of local governments that modifies the three-year
36 period. The Commission may approve one or more successive coalition plan periods
37 proposed by a coalition of local governments through its nonprofit corporation. The
38 coalition plan may provide for strategies tailored for use within the region that vary from
39 one subarea or jurisdiction to another.

40 (i) If the Commission determines that a jurisdiction participating in a coalition
41 plan is not making good faith progress toward attaining a desired water quality outcome,
42 the Commission may suspend or revoke its approval of participation in the coalition plan
43 by that jurisdiction. If the Commission determines that a coalition plan no longer will

1 provide a viable alternative method of attaining substantial compliance with water quality
2 standards, the Commission may suspend or revoke its approval of the coalition plan.

3 (j) The Commission may approve one or more amendments to a coalition plan
4 proposed by a coalition of local governments through its nonprofit corporation with the
5 approval of the governing board of each local government that is a member of the
6 coalition of local governments that proposed the coalition plan.

7 (k) With the approval of the Commission, any coalition of local governments with
8 an approved coalition plan may establish and implement a pollutant trading program for
9 specific pollutants between and among point source dischargers and nonpoint pollution
10 sources.

11 (l) The Commission shall submit an annual progress report on the implementation
12 of this section to the Environmental Review Commission on or before 1 October of each
13 year."

14 Section 2. The Environmental Management Commission shall submit the first
15 report required by G.S. 143-214.14(l), as enacted by Section 1 of this act, on or before 1
16 October 1998.

17 Section 3. Section 1 of this act constitutes a recent act of the General
18 Assembly within the meaning of G.S. 150B-21.1(a). The Environmental Management
19 Commission may adopt temporary rules to implement Section 1 of this act for one year
20 from the date this act becomes effective.

21 Section 4. Notwithstanding the provisions of G.S. 143-215.84 and G.S. 143-
22 215.94E and except as provided in subsection (d) of Section 1 of Chapter 648 of the 1995
23 Session Laws (1996 Regular Session), no person shall be required to clean up a discharge
24 or release from a leaking petroleum underground storage tank that has been classified as
25 having a Class CDE impact pursuant to subsection (b) of Section 1 of Chapter 648 of the
26 1995 Session Laws (1996 Regular Session).

27 Section 5. The Environmental Management Commission shall adopt the rule
28 required by G.S. 143-215.94V(b) and Section 6 of Chapter 648 of the 1995 Session Laws
29 (1996 Regular Session) as a temporary rule no later than 31 July 1997.

30 Section 6. This act is effective when it becomes law. Section 4 of this act
31 expires when the temporary rule required by Section 5 of this act becomes effective as
32 provided in G.S. 150B-21.3(a).