

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS65061-LH-97 (2/15)

Short Title: Interconnection of Public Water Systems. (Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT REQUIRING THE INTERCONNECTION OF PUBLIC WATER SYSTEMS OR WASTEWATER SYSTEMS TO REGIONAL SYSTEMS WHEN NECESSARY TO PROMOTE PUBLIC HEALTH, PROTECT THE ENVIRONMENT, AND ENSURE COMPLIANCE WITH DRINKING WATER RULES AND TO REQUIRE THAT AN ANALYSIS OF REASONABLE ALTERNATIVES BE DONE BEFORE CONSTRUCTING OR ALTERING A PUBLIC WATER SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 130A-317(c) reads as rewritten:

"(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless all of the following conditions are met:

(1) The plans for construction or alteration have been prepared by an engineer licensed by this State.

(2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water rules.

(3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, ~~county~~ county, or regional ~~system~~ system; the Department may require interconnection with a municipal, county, or regional system within a county, or between or among counties if approved by the board of commissioners of each county, if necessary to promote the public health, protect the environment, or ensure compliance with drinking water rules.

(3a) The Department has determined that an analysis was done, including a financial analysis, of the reasonable alternatives to the proposed

1 construction or alteration of the public water system and that the
2 analysis indicates that the proposed construction or alteration is
3 appropriate.

4 (4) The Department has determined that adequate arrangements have been
5 made for the continued operation, service and maintenance of the
6 public water system.

7 (5) The Department has approved the plans and specifications."

8 **SECTION 2.** G.S. 130A-317(d) reads as rewritten:

9 "(d) Municipalities, counties, local boards or commissions, water and sewer
10 authorities, or groups of municipalities and counties may establish and administer
11 within their utility service areas their own approval program in lieu of State approval of
12 water system plans required in subsection (c) of this section for construction or
13 alteration of the distribution system of a proposed or existing public water system,
14 subject to the prior certification of the Department. For purposes of this subsection, the
15 service area of a municipality shall include only that area within the corporate limits of
16 the municipality and that area outside a municipality in its extraterritorial jurisdiction
17 where water service is already being provided to the permit applicant by the
18 municipality or connection to the municipal water system is immediately available to
19 the applicant; the service areas of counties and the other entities or groups shall include
20 only those areas where water service is already being provided to the applicant by the
21 permitting authority or connection to the permitting authority's system is immediately
22 available. No later than the 180th day after the receipt of an approval program and
23 statement submitted by any local government, commission, authority, or board, the
24 Department shall certify any local program that meets all of the following conditions:

25 (1) Provides by ordinance or local law for requirements compatible with
26 those imposed by this Article, and the standards and rules adopted
27 pursuant to this Article.

28 (2) Provides that the Department receives notice and a copy of each
29 application for approval and that the Department receives copies of
30 approved plans.

31 (3) Provides that plans and specifications for all construction and
32 alterations be prepared by or under the direct supervision of an
33 engineer licensed to practice in this State.

34 (4) Provides for the adequate enforcement of the program requirements by
35 appropriate administrative and judicial process.

36 (5) Provides for the adequate administrative organization, engineering
37 staff, financial and other resources necessary to effectively carry out its
38 plan review program. A local government, commission, authority, or
39 board may either employ an engineer licensed under Chapter 89C of
40 the General Statutes to practice as a professional engineer in the State
41 or contract with an engineer licensed under Chapter 89C of the
42 General Statutes to practice as a professional engineer in the State in
43 order to provide for adequate engineering staff under this subdivision.

- 1 (6) Provides that the system is capable of interconnection at an appropriate
2 time with an expanding municipal, county, or regional ~~system~~ system
3 and requires interconnection with a municipal, county, or regional
4 system when the Department determines interconnection is necessary
5 to promote the public health, protect the environment, or ensure
6 compliance with drinking water rules.
- 7 (7) Provides for the adequate arrangement for the continued operation,
8 service, and maintenance of the public water system.
- 9 (8) Provides that an approved system, as constructed or altered, will be
10 capable of compliance with the drinking water rules.
- 11 (9) Is approved by the Department as adequate to meet the requirements of
12 this Article and any applicable rules adopted pursuant to this Article."

13 **SECTION 3.** G.S. 143-215.1(b)(4) reads as rewritten:

- 14 "(4) The Commission shall have the power:
- 15 a. To grant a permit with such conditions attached as the
16 Commission believes necessary to achieve the purposes of this
17 Article.
 - 18 b. To require that an applicant satisfy the Department that the
19 applicant, or any parent, subsidiary, or other affiliate of the
20 applicant or parent:
 - 21 1. Is financially qualified to carry out the activity for which
22 the permit is required under subsection (a) of this
23 section; and
 - 24 2. Has substantially complied with the effluent standards
25 and limitations and waste management treatment
26 practices applicable to any activity in which the
27 applicant has previously engaged, and has been in
28 substantial compliance with other federal and state laws,
29 regulations, and rules for the protection of the
30 environment.
 - 31 3. As used in this subdivision, the words "affiliate,"
32 "parent," and "subsidiary" have the same meaning as in
33 17 Code of Federal Regulations § 240.12b-2 (April 1,
34 1990, Edition).
 - 35 4. For a privately owned treatment works that serves 15 or
36 more service connections or that regularly serves 25 or
37 more individuals, financial qualification may be
38 demonstrated through the use of a letter of credit,
39 insurance, surety, trust agreement, financial test, bond, or
40 a guarantee by corporate parents or third parties who can
41 pass the financial test. No permit shall be issued under
42 this section for a privately owned treatment works that
43 serves 15 or more service connections or that regularly
44 serves 25 or more individuals, until financial

- 1 qualification is established and the issuance of the permit
- 2 shall be contingent on the continuance of the financial
- 3 qualification for the duration of the activity for which the
- 4 permit was issued.
- 5 c. To modify or revoke any permit upon not less than 60 days'
- 6 written notice to any person affected.
- 7 d. To designate certain classes of minor activities for which a
- 8 general permit may be issued, after considering:
- 9 1. The environmental impact of the activities;
- 10 2. How often the activities are carried out;
- 11 3. The need for individual permit oversight; and
- 12 4. The need for public review and comment on individual
- 13 permits.
- 14 e. To designate certain classes of minor activities for which:
- 15 1. Performance conditions may be established by rule; and
- 16 2. Individual or general permits are not required.
- 17 f. To require connection to a municipal, county, or regional
- 18 wastewater system if necessary to promote public health,
- 19 protect the environment, or ensure compliance with water
- 20 quality rules."

21 **SECTION 4.** G.S. 143-215.1(b) is amended by adding two new subdivisions

22 to read:

- 23 "(6) No permit for a new or expanded municipal waste treatment system or
- 24 nonmunicipal waste treatment system (human waste only) shall be
- 25 issued, unless the applicant:
- 26 a. Has adopted a plan to implement a program to reduce demand
- 27 and manage existing capacity by reducing or eliminating
- 28 stormwater and groundwater infiltration and intrusion into
- 29 collection lines;
- 30 b. Has performed and submits an analysis, including a financial
- 31 analysis, of reasonable alternatives to the proposed new or
- 32 expanded waste treatment system, including the consideration
- 33 of discharging to created wetlands and the beneficial reuse of
- 34 treated wastewater for nondrinking water purposes; and
- 35 c. Can demonstrate that the proposed new or expanded waste
- 36 treatment facility will be planned, designed, and constructed to
- 37 facilitate or accommodate eventual interconnection with
- 38 adjoining systems or regional waste treatment systems.
- 39 (7) In deciding whether to grant a permit application under subdivision (6)
- 40 of this subsection, the Commission may consider whether the applicant
- 41 is making adequate progress in the implementation of sub-subdivision
- 42 a. of subdivision (6) of this subsection and may consider whether the
- 43 applicant could feasibly choose an alternative under sub-subdivision b.

1 of subdivision (6) of this subsection that will provide better protection
2 for water quality."

3 **SECTION 5.** G.S. 143-215.1(f) reads as rewritten:

4 "(f) Local Permit Programs for Sewer Extension and Reclaimed Water
5 Utilization. – Municipalities, counties, local boards or commissions, water and sewer
6 authorities, or groups of municipalities and counties may establish and administer
7 within their utility service areas their own general permit programs in lieu of State
8 permit required in G.S. 143-215.1(a)(2), (3), and (8) above, for construction, operation,
9 alteration, extension, change of proposed or existing sewer system, subject to the prior
10 certification of the Commission. For purposes of this subsection, the service area of a
11 municipality shall include only that area within the corporate limits of the municipality
12 and that area outside a municipality in its extraterritorial jurisdiction where sewer
13 service or a reclaimed water utilization system is already being provided by the
14 municipality to the permit applicant or connection to the municipal sewer system or a
15 reclaimed water utilization system is immediately available to the applicant; the service
16 areas of counties and the other entities or groups shall include only those areas where
17 sewer service or a reclaimed water utilization system is already being provided to the
18 applicant by the permitting authority or connection to the permitting authority's system
19 is immediately available. No later than the 180th day after the receipt of a program and
20 statement submitted by any local government, commission, authority, or board the
21 Commission shall certify any local program that does all of the following:

- 22 (1) Provides by ordinance or local law for requirements compatible with
23 those imposed by this Part and the rules implementing this Part.
24 (2) Provides that the Department receives notice and a copy of each
25 application for a permit and that it receives copies of approved permits
26 and plans upon request by the Commission.
27 (3) Provides that plans and specifications for all construction, extensions,
28 alterations, and changes be prepared by or under the direct supervision
29 of an engineer licensed to practice in this State.
30 (4) Provides for the adequate enforcement of the program requirements by
31 appropriate administrative and judicial process.
32 (5) Provides for the adequate administrative organization, engineering
33 staff, financial and other resources necessary to effectively carry out its
34 plan review program.
35 (6) Provides that the system is capable of interconnection at an appropriate
36 time with an expanding municipal, county, or regional ~~system~~. system
37 and requires interconnection with a municipal, county, or regional
38 system when the Department determines interconnection is necessary
39 to promote the public health, protect the environment, or ensure
40 compliance with water quality rules.
41 (6a) Provides that an analysis, including a financial analysis, of the
42 reasonable alternatives to any proposed construction or alteration of a
43 public sewer system must be done and that the analysis must
44 demonstrate that the proposed construction or alteration is appropriate.

1 (7) Provides for the adequate arrangement for the continued operation,
2 service, and maintenance of the sewer or a reclaimed water utilization
3 system.

4 (8) Is approved by the Commission as adequate to meet the requirements
5 of this Part and the rules implementing this Part."

6 **SECTION 6.** The Commission for Health Services shall adopt rules to
7 implement G.S. 130A-317, as amended by Sections 1 and 2 of this act, by October 1,
8 2007. The Environmental Management Commission shall adopt rules to implement
9 G.S. 143-215.1, as amended by Sections 3, 4, and 5 of this act, by October 1, 2007.
10 Notwithstanding G.S. 150B-21.1(a)(2), this act shall not be construed to authorize the
11 adoption of temporary rules.

12 **SECTION 7.** This act is effective when it becomes law.