

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE DRH60065-MH-55B (03/23)

Short Title: Protect Landowner Water Rights. (Public)

Sponsors: Representatives Gillespie, Langdon, Brisson, and Hill (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENHANCE THE PROTECTION OF LANDOWNERS' WATER RIGHTS, AND  
3 TO EXEMPT AGRICULTURAL PONDS FROM THE DAM SAFETY ACT.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 38 of Chapter 143 of the General Statutes is amended by  
6 adding a new section to read:

7 "§ 143-350.1. Declaration of policy.

8 The following principles constitute the water resources policy of the State. In rendering  
9 administrative and judicial determinations regarding water use, the State and any political  
10 subdivision of the State shall be governed by these principles.

11 (1) Water resources protected. – Access to and the ability to use water resources  
12 is critical in preserving North Carolina's rich heritage as a societal,  
13 economic, environmental, educational and cultural leader. Protection of  
14 these resources is a priority of the State.

15 (2) Protection of water will include voluntary initiatives. – The state will utilize  
16 a combination of regulatory and voluntary programs to ensure the protection  
17 of water resources and the preservation of landowner water rights.  
18 Recognizing certain authority of the state to regulate water use in Articles 21  
19 and 38 of Chapter 143 of the General Statutes, the intent of the State is limit  
20 the exercise of such authority in favor of working with landowners and water  
21 users to encourage voluntary solutions to reducing water use.

22 (3) Encourage conservation and efficiency. – The State will examine, promote  
23 and implement programs that provide incentives for water users to conserve  
24 water and increase water use efficiency.

25 (4) Encourage increased storage capacity. – The State will examine and seek to  
26 eliminate regulatory impediments to increased development of water  
27 resources and storage structures, including wells, ponds, reservoirs, and  
28 other impoundments.

29 (5) Encourage reuse. – The State will encourage the adoption of programs that  
30 facilitate the increased use of reclaimed water and recycled water and  
31 subject to a heightened standard of necessity and urgency any statutes or  
32 rules that interfere with the increased use of reclaimed and recycled water.

33 (6) Recognize roles of landowners. – The State will promote practices, projects,  
34 and programs that encourage landowners to conserve and protect water  
35 resources.



1           (7) Preservation of landowner water rights. – In carrying out its duty to protect  
2           water resources, the State shall first identify incentives, voluntary programs,  
3           and other non-regulatory initiatives prior to exercising its authority under  
4           Articles 21 and 38 of Chapter 143 of the General Statutes."

5           **SECTION 2.** G.S. 143.215.22 reads as rewritten:

6           "**§ 143-215.22. Law of riparian rights not changed.**

7           (a) Nothing contained in this Part shall change or modify existing common or statutory  
8 law with respect to the relative rights of riparian owners concerning the use of surface water in  
9 this State.

10          (b) Landowner Water Rights Protected.

11          Except for authority granted to the Governor, Department, or Commission in Articles 21  
12 and 38 of Chapter 143 of the General Statutes, neither the State nor any political subdivision of  
13 the State shall limit a landowner from withdrawing and using water from any of the following:

14           (1) A natural body of water abutting or located on the landowner's property.

15           (2) An impoundment constructed by or owned by the landowner.

16           (3) Wells constructed on the landowner's property.

17           (4) Other source of water on the landowner's property including, but not limited  
18 to, captured stormwater, springs, and artesian wells."

19          **SECTION 3.** G.S. 143-355.3(f) reads as rewritten:

20          (f) Nothing in this section shall limit a landowner from withdrawing water for use in  
21 agricultural activities, when such water is withdrawn from any of the following:

22           (1) A natural body of water abutting or located on the landowner's property.

23           (2) An impoundment constructed by or owned by the landowner.

24           (3) Wells constructed on the landowner's property.

25           (4) Other natural source of water on the landowner's property including, but not  
26 limited to, captured stormwater, springs, and artesian wells.

27          As used in this section, "agricultural activities" shall be defined as any activity described  
28 by G.S. 106-581.1."

29          **SECTION 4.** G.S. 143-215.25A(a) is amended by adding a new subsection to read:

30          "(7) Constructed for the purpose of providing water for agricultural use, when a  
31 person who is licensed as a professional engineer under Chapter 89C of the  
32 General Statutes designed or approved plans for the dam and supervised its  
33 construction."

34          **SECTION 5.** This act is effective when it becomes law.