

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 712  
SENATE BILL 943

AN ACT TO REQUIRE THE REGISTRATION OF WATER WITHDRAWALS AND  
TRANSFERS OF ONE MILLION GALLONS OR MORE PER DAY.

The General Assembly of North Carolina enacts:

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

"Part 2A. Registration of Water Withdrawals and Transfers.

**"§ 143-215.22A. Definitions.**

In addition to the definitions set forth in G.S. 143-212 and G.S. 143-213, the following definitions apply to this Part.

- (1) 'River basin' means any of the following river basins designated on the map entitled 'Major River Basins and Sub-basins in North Carolina' and filed in the Office of the Secretary of State on 16 April 1991:
  - a. 1-1 Broad River.
  - b. 2-1 Haw River.
  - c. 2-2 Deep River.
  - d. 2-3 Cape Fear River.
  - e. 2-4 South River.
  - f. 2-5 Northeast Cape Fear River.
  - g. 2-6 New River.
  - h. 3-1 Catawba River.
  - i. 3-2 South Fork Catawba River.
  - j. 4-1 Chowan River.
  - k. 4-2 Meherrin River.
  - l. 5-1 Nolichucky River.
  - m. 5-2 French Broad River.
  - n. 5-3 Pigeon River.
  - o. 6-1 Hiwassee River.
  - p. 7-1 Little Tennessee River.
  - q. 7-2 Tuskasegee (Tuckasegee) River.
  - r. 8-1 Savannah River.
  - s. 9-1 Lumber River.
  - t. 9-2 Big Shoe Heel Creek.
  - u. 9-3 Waccamaw River.
  - v. 9-4 Shallotte River.
  - w. 10-1 Neuse River.

x.	10-2	<u>Contentnea Creek.</u>
y.	10-3	<u>Trent River.</u>
z.	11-1	<u>New River.</u>
aa.	12-1	<u>Albemarle Sound.</u>
bb.	13-1	<u>Ocoee River.</u>
cc.	14-1	<u>Roanoke River.</u>
dd.	15-1	<u>Tar River.</u>
ee.	15-2	<u>Fishing Creek.</u>
ff.	15-3	<u>Pamlico River and Sound.</u>
gg.	16-1	<u>Watauga River.</u>
hh.	17-1	<u>White Oak River.</u>
ii.	18-1	<u>Yadkin (Yadkin-Pee Dee) River.</u>
jj.	18-2	<u>South Yadkin River.</u>
kk.	18-3	<u>Uwharrie River.</u>
ll.	18-4	<u>Rocky River.</u>

- (2) 'Surface water' means any of the waters of the State located on the land surface that are not derived by pumping from groundwater.
- (3) 'Transfer' means the withdrawal, diversion, or pumping of surface water from one river basin and discharge of all or any part of the water in a river basin different from the origin.

**"§ 143-215.22B. Registration of water withdrawals and transfers required.**

(a) Any person who withdraws 1,000,000 gallons per day or more of water from the surface waters of the State or who transfers 1,000,000 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 millions 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.

(b) Any person initiating a new surface water withdrawal or transfer of 1,000,000 gallons per day or more shall register the withdrawal or transfer with the Commission not later than six 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."

Sec. 2. G.S. 143-215.3(1b) reads as rewritten:

"(1b) The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing of an application for a permit under G.S. 143-215.1 of Article 21 and G.S. 143-215.108 and G.S. 143-215.109 of Article 21B of this Chapter may not exceed four hundred dollars (\$400.00). The fee to be charged pursuant to G.S. 143-215.3(a)(1a) for processing an application for a registration under Article 38 or Part 2A of this Chapter may not exceed fifty dollars (\$50.00) for any single application, except that a penalty of as much as twenty percent (20%) of the fee may be assessed for late

registration. The fee for administering and compliance monitoring under G.S. 143-215.1 of Article 21 and G.S. 143-215.108 and G.S. 143-215.109 of Article 21B shall be charged on an annual basis for each year of the permit term and may not exceed one thousand five hundred dollars (\$1,500) per year. Fees for processing all permits under Article 21A and all other Sections of Articles 21 and 21B shall not exceed one hundred dollars (\$100.00) for any single permit. Notwithstanding any other provision of this subdivision, the total payment for fees required for all permits under this subsection for any single facility shall not exceed seven thousand five hundred dollars (\$7,500) per year, which amount shall include all application fees and fees for administration and compliance monitoring. A single facility is defined to be any contiguous area under one ownership and in which permitted activities occur. For all permits issued under these Articles where a fee schedule is not specified in the statutes, the Commission, or other commission specified by statute shall adopt a fee schedule in a rule following the procedures established by the Administrative Procedure Act. Such fee schedules shall be established to reflect the size of the emission or discharge, the potential impact on the environment, the staff costs involved, relative costs of the issuance of new permits and the reissuance of existing permits, and shall include adequate safeguards to prevent unusual fee assessments which would result in serious economic burden on an individual applicant. A system shall be considered to allow consolidated annual payments for persons with multiple permits. In its rulemaking to establish fee schedules, the Commission is also directed to consider a method of rewarding facilities which achieve full compliance with administrative and self-monitoring reporting requirements, and to consider, in those cases where the cost of renewal or amendment of a permit is less than for the original permit, a lower fee for such renewal or amendment."

Sec. 3. All withdrawals and transfers of surface waters that are existing or planned on the date this act becomes effective shall be registered as required by G.S. 143-215.22B by 1 January 1992.

Sec. 4. The Department of Environment, Health, and Natural Resources shall submit a report to the General Assembly by 1 April 1992 summarizing the registration information on existing and proposed water withdrawals and transfers registered under the provisions of this act.

Sec. 5. G.S. 143-215.22A(b), as enacted by Chapter 567 of the 1991 Session Laws, reads as rewritten:

~~"(b) In an action brought by the State in the superior court of any county bordering such reservoir or river, any such withdrawal, and all steps taken to facilitate that withdrawal, shall be enjoined upon a showing that said public policy has been violated. If the withdrawal occurs, the withdrawing party shall be liable to the State for damages in an amount equal to the maximum value of the water withdrawn, as if that water were~~

~~put to its most valuable theoretical use. In calculating such damages, the court shall take into account the continuing nature of the withdrawal, and the potential that the maximum value of water may increase in the future as a result of scarcity or other factors. This section shall not be construed to create an independent cause of action by the State or by any person. This section shall not apply to any project or facility for which a withdrawal of water began prior to the date this section is effective."~~

Sec. 6. G.S. 143-215.22A(c), as enacted by Chapter 567 of the 1991 Session Laws, is repealed.

Sec. 7. Sections 1 through 4 of this act are effective upon ratification. Sections 5 through 7 of this act are effective retroactively as of 4 July 1991.

In the General Assembly read three times and ratified this the 16th day of July, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives