

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1765*

Short Title: Amend IBT Enforcement and Notice. (Public)

Sponsors: Representatives Gibson, Harrison (Primary Sponsors); and Hughes.

Referred to: Environment and Natural Resources, if favorable, Finance.

May 18, 2010

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TO USE INJUNCTIVE RELIEF TO ENSURE COMPLIANCE WITH INTERBASIN TRANSFER LAWS AND TO PROVIDE THAT AN APPLICANT FOR AN INTERBASIN TRANSFER CERTIFICATE SHALL PAY THE COSTS ASSOCIATED WITH ALL REQUIRED PUBLIC HEARINGS, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-215.6C reads as rewritten:

"§ 143-215.6C. Enforcement procedures; injunctive relief.

Whenever the Department has reasonable cause to believe that any person has violated or is threatening to violate any of the provisions of ~~this Part~~, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information; any of the terms of any permit issued pursuant to ~~this Part~~, Part 1, Part 1A, or Part 2A of this Article; or a rule implementing ~~this Part~~, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information, the Department may, either before or after the institution of any other action or proceeding authorized by this Part, request the Attorney General to institute a civil action in the name of the State upon the relation of the Department for injunctive relief to restrain the violation or threatened violation and for such other and further relief in the premises as the court shall deem proper. The Attorney General may institute such action in the superior court of the county in which the violation occurred or may occur or, in his discretion, in the superior court of the county in which the person responsible for the violation or threatened violation resides or has his or its principal place of business. Upon a determination by the court that the alleged violation of ~~the provisions of this Part or the regulations of the Commission~~ has occurred or is threatened, the court shall grant the relief necessary to prevent or abate the violation or threatened violation. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed for violation of ~~this Part~~, Part 1, Part 1A, or Part 2A of this Article or G.S. 143-355(k) relating to water use information. For purposes of this section references to "this Part" include Part 1A of this Article and G.S. 143-355(k) relating to water use information."

SECTION 2. G.S. 143-215.22L(e) reads as rewritten:

"(e) Public Hearing on the Draft Environmental Document. – The Commission shall hold a public hearing on the draft environmental document for a proposed interbasin transfer after giving at least 30 days' written notice of the hearing in the Environmental Bulletin and as provided in subdivisions (2) and (3) of subsection (c) of this section. The notice shall indicate where a copy of the environmental document can be reviewed and the procedure to be followed by anyone wishing to submit written comments and questions on the environmental document.



1 The Commission shall prepare a record of all comments and written responses to questions
2 posed in writing. The record shall include complete copies of scientific or technical comments
3 related to the potential impact of the interbasin transfer. The Commission shall accept written
4 comment on the draft environmental documents for a minimum of 30 days following the last
5 public hearing. The applicant who petitions the Commission for a certificate under this section
6 shall pay the costs associated with the notice and public hearing on the draft environmental
7 document."

8 **SECTION 3.** G.S. 143-215.22L(j) reads as rewritten:

9 "(j) Public Hearing on the Draft Determination. – Within 60 days of the issuance of the
10 draft determination as provided in subsection (i) of this section, the Commission shall hold
11 public hearings on the draft determination. At least one hearing shall be held in the affected
12 area of the source river basin, and at least one hearing shall be held in the affected area of the
13 receiving river basin. In determining whether more than one public hearing should be held
14 within either the source or receiving river basins, the Commission shall consider the differing
15 or conflicting interests that may exist within the river basins, including the interests of both
16 upstream and downstream parties potentially affected by the proposed transfer. The public
17 hearings shall be conducted by one or more hearing officers appointed by the Chair of the
18 Commission. The hearing officers may be members of the Commission or employees of the
19 Department. The Commission shall give at least 30 days' written notice of the public hearing as
20 provided in subsection (c) of this section. The Commission shall accept written comment on the
21 draft determination for a minimum of 30 days following the last public hearing. The
22 Commission shall prepare a record of all comments and written responses to questions posed in
23 writing. The record shall include complete copies of scientific or technical comments related to
24 the potential impact of the interbasin transfer. The applicant who petitions the Commission for
25 a certificate under this section shall pay the costs associated with the notice and public hearing
26 on the draft determination."

27 **SECTION 4.** This act is effective when it becomes law.