

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 954
SENATE BILL 1378

AN ACT TO ESTABLISH A MORATORIUM ON THE TRANSFER OF WATERS.

The General Assembly of North Carolina enacts:

Section 1. Except as provided in Section 2 of this act and notwithstanding the provisions of G.S. 153A-285, G.S. 153A-287, or any other provision of law, no entity whether public or private, or whether acting separately or jointly may divert any of the waters of this State, as defined in G.S. 143-212(6), from the basin of any named river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto for a use that will result in waters of this State being diverted from the basin of one named river to another.

Sec. 2. The prohibition in Section 1 of this act does not affect:

- (1) The diversion of waters from the basin of one named river to another where the actual diversion of waters lawfully began before the effective date of this act.
- (2) The diversion of waters from the basin of one named river to another if the diversion is authorized under a certificate or permit issued before the effective date of this act by the Environmental Management Commission as provided by G.S. 153A-285 and G.S. 162A-7, provided the diversion does not exceed the level authorized by the certificate or permit as issued before the effective date.
- (3) The diversion of waters from the basin of one named river to another if the diversion was included in the plans for a federal reservoir project that received congressional approval before the effective date of this act but was not constructed before the effective date of this act.
- (4) The diversion of waters from the basin of one named river to another if the diversion was included in plans for a water treatment facility and funds to construct the water treatment facility were approved in a bond referendum held prior to the effective date of this act.
- (5) The diversion of waters from the basin of one named river to another where the diversion is in response to a substantial risk of water supply failure caused by low lake levels or streamflows, or in response to a water contamination or equipment failure emergency, provided that such diversions are limited to a maximum period of 140 days.
- (6) The discharge of waters from the basin of one named river to another if the discharge is authorized under a permit issued before the effective

date of this act by the Environmental Management Commission as provided by G.S. 143-215.1.

- (7) The diversion of waters from the basin of one named river to another by a county that is situated on a ridge between two river basins for which the feeder streams flow into free flowing rivers rather than a reservoir if the diversion is included in plans to construct a water treatment plant that is part of a joint project with a water and sewer authority located in another state and a permit for an interbasin transfer has been issued by the state in which the water and sewer authority is located.

Sec. 3. The prohibition in Section 1 of this act does not affect the diversion of waters from the basin of one named river, the mainstream of which downstream from the point of the diversion is not located entirely in North Carolina, to the basin of another named river where the actual diversion of waters began before the effective date of this act.

Sec. 4. This act may not be construed to reflect legislative approval or disapproval of any transfer exempted herein.

Sec. 5. For purposes of this act the term "named river" shall mean any body of water bearing the designation "river" on the latest edition of the appropriate U.S. Geological Survey 7.5 minute quadrangle map.

Sec. 6. This act shall not be construed to obligate the General Assembly to appropriate any funds to implement the provisions of this act.

Sec. 7. This act is effective upon ratification and shall expire 1 July 1991.

In the General Assembly read three times and ratified this the 18th day of July, 1990.