

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1277

Short Title: Remedy Certain Water Withdrawals.

(Public)

Sponsors: Representative J. W. Crawford.

Referred to: Appropriations.

May 10, 1991

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE STATE POLICY REGARDING WATER
WITHDRAWALS AND TO PROVIDE REMEDIES FOR WATER
WITHDRAWALS WHICH ARE CONTRARY TO PUBLIC POLICY.

The General Assembly of North Carolina enacts:

Section 1. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.22A. Water withdrawal policy; remedies.

(a) It is against the public policy of North Carolina to withdraw water from any major river or reservoir, either within or without this State, if all of the following factors are present: (1) the withdrawal is in sufficient quantity to cause the natural flow of water in the river or reservoir to be reversed; (2) the withdrawal will cause water naturally moving between two points in this State to instead flow out of this State; and (3) substantial portions of the water are not returned to the river system after use.

(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the withdrawing party shall be liable to the State for damages in an amount equal to the maximum value of the water withdrawn, as if that water were put to its most valuable theoretical use.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."

1 Sec. 2. There is appropriated from the General Fund to the Department of
2 Environment, Health, and Natural Resources the sum of \$5,000 for the 1991-92 fiscal
3 year to implement this act.

4 Sec. 3. This act becomes effective October 1, 1991.