

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 520
HOUSE BILL 686

AN ACT TO PROVIDE THAT THE REGULATION OF WATER SUPPLY WATERSHEDS DOES NOT APPLY TO CERTAIN WATERSHEDS AND TO AUTHORIZE HENDERSON AND TRANSYLVANIA COUNTIES AND THE CITY OF BREVARD TO TAKE INTO CONSIDERATION PROSPECTIVE REVENUES GENERATED BY A DEVELOPMENT IN ARRIVING AT THE AMOUNT OF CONSIDERATION FOR AN ECONOMIC DEVELOPMENT CONVEYANCE AND TO EXTEND WATER AND SEWER LINES TO INDUSTRIAL PROPERTIES FOR ECONOMIC DEVELOPMENT PURPOSES.

Whereas, the regulation of all watersheds unfairly restricts the economic development and growth of some local governments; and

Whereas, the terrain in Western North Carolina makes the regulation of all watersheds unnecessary; and

Whereas, it is unknown whether watershed zoning regulations would adversely affect the extension of Interstate Highway 26 to the Tennessee state line; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other law, the provisions of G.S. 143-214.5 shall not apply to any water supply watershed area classified as WS II by the Environmental Management Commission prior to July 1, 1993 and formerly classified as Class C, comprising 70,000 acres or more but less than 75,000 acres in watershed and protected area and lying in two or more counties, one of which has land use jurisdiction therein, and part of which lies in the land use regulation jurisdiction of a city or town, having a point of elevation of at least 1,650 feet above sea level and was not being used as a water supply for any municipality on July 1, 1993, said area also lying adjacent to a third county which lies within the same two-member State Senate district as do all or parts of the other two counties.

Sec. 2. Section 1 of this act shall expire on July 1, 1996, provided the following conditions have been met:

- (1) The Environmental Management Commission has reclassified the area affected by this act to a classification other than WS II or WS I and the critical area has been removed;
- (2) The General Assembly has provided by legislation:
 - (i) For a definition of "water supply";

- (ii) For a definition of "critical water supply watersheds" as used in G.S. 143-214.5(b);
 - (iii) For a definition of "performance-based alternatives to development density controls" as used in G.S. 143-214.5;
 - (iv) For making clear whether the provision in G.S. 143-215.2(a) that that section does not apply to agricultural operations applies to the entire water supply watershed protection laws;
 - (v) For correcting the wrong references found in Session Laws 1989, Chapter 426, Section 5(a) and Session Laws 1991, Chapter 471, Section 1 which refer to G.S. 143-214.4(b);
 - (vi) For specifying that guidelines for water supply watershed management shall be consistent with stated goals for such management, for setting specific standards to be followed by the Environmental Management Commission in adopting water supply watershed classifications and for making rules and regulations governing the public and private use of lands and waters within classified areas;
 - (vii) That any rules restricting agricultural use of lands or waters shall specifically include appropriate connections between acreage involved and height and slope of lands involved with such necessary restrictions to fit different classifications;
 - (viii) For judicial review of any order, classification, rule, or regulation of the Environmental Management Commission for any person having a recorded interest or interest by operation of law in or registered claim to land within an area affected by such order, classification, rule, or regulation as now set forth in G.S. 113A-123(b) and (c);
 - (ix) For protection of landowners' rights as set forth in G.S. 113A-128;
 - (x) That drinking water from a water supply watershed can be distributed only in an area downstream from such water supply watershed except where the entire water supply watershed is owned by one or more governmental entities;
- (3) The Environmental Management Commission has amended its rules and regulations to provide:
- (i) That no rule or regulation, federal or State, shall be included therein by reference, whether current or adopted later, as set out in 15A NCAC 2B .0101(f) where such rules incorporate 40 CFR 131.10(b), (c), (d), and (g) by reference "including any subsequent amendment and editions";
 - (ii) A clear definition of "Best Management Practice" as now appears in 15A NCAC 2B .0202(6);
 - (iii) That references to and use of the Federal Water Pollution Control Act be eliminated from the rules and regulations as a

standard upon which to base water quality based effluent limits and best management practices related to water supply watershed protection, as now set forth in 15A NCAC 2B .0202(55).

Sec. 3. G.S. 158-7.1(b) is amended by adding a new subdivision to read:

"(6) A county or city may extend, or may provide for or assist in the extension of, water and sewer lines to industrial properties and facilities, whether the industrial property or facility is publicly or privately owned."

Sec. 4. G.S. 158-7.1(d1) reads as rewritten:

"(d1) In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

- (1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city.
- (2) The governing board of the county or city shall contractually bind the purchaser of the property to construct improvements on the property within a specified period of time, not to exceed 10 years, which improvements are sufficient to generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.

This subsection applies to the Cities of Angier, Brevard, Broadway, Burnsville, Charlotte, Clinton, Coats, Concord, Connelly Springs, Conover, ~~High Point~~, Drexel, Dunn, Erwin, Glen Alpine, Granite Falls, Greensboro, High Point, Hildebran, Hot Springs, Kannapolis, Lillington, Marion, Mars Hill, Marshall, Monroe, Mocksville, Mooresville, Morganton, Mount Airy, Old Fort, Rhodhiss, Rocky Mount, St. Pauls, Sanford, Selma, Smithfield, Statesville, Troutman, Valdese, and Winston-Salem, and the Counties of Alleghany, Ashe, Burke, Cabarrus, Clay, Cleveland, Davie, Forsyth, Franklin, Guilford, Harnett, Henderson, Iredell, Johnston, Lee, McDowell, Madison, Mecklenburg, Nash, Polk, Richmond, Rockingham, Sampson, Transylvania, Wayne, and Yancey. This subsection also applies to Columbus County and all incorporated municipalities located therein."

Sec. 5. Sections 3 and 4 of this act applies to the City of Brevard and to Clay, Henderson and Transylvania Counties only. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 24th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives