

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** SB 875 **COMMITTEE SUBSTITUTE**

**SHORT TITLE:** REGULATE INTERBASIN TRANSFERS

**SPONSOR(S):** Senator Tally

**FISCAL IMPACT:**    **Expenditures:**    **Increase (x)**        **Decrease ( )**  
                         **Revenues:**            **Increase ( )**        **Decrease ( )**  
                         **No Impact ( )**  
                         **No Estimate Available ( )**

**FUND AFFECTED:**    **General Fund (x)**    **Highway Fund ( )**    **Local Fund (x)**  
                         **Other Fund ( )**

**BILL SUMMARY:**

S 875. REGULATE INTERBASIN TRANSFERS. "TO REGULATE INTERBASIN TRANSFERS." Amends GS Ch. 143, Art. 21, Part 2A, which now requires registration of interbasin transfers, to add provisions regulating such transfers. Requires certificate from Environmental Management Comm'n before person may (1) initiate transfer of two million gallons per day from one basin to another or (2) construct facility designed to increase existing transfer, if increase will either equal or exceed 25% of capacity of existing facilities or cause transfer to equal or exceed two million gallons per day. Sets out requirements for application, extensive requirements of notice of hearing before Comm'n on application, and specific findings that must be made by Comm'n. Prohibits Comm'n from issuing certificate unless it finds, on preponderance of evidence, that (1) present and reasonably foreseeable future water needs of source basin are protected; (2) benefits of transfer outweigh detriments; (3) significant detrimental effects have been mitigated as reasonably possible; (4) amount of water to be transferred and its proposed use are necessary and reasonable; (5) applicant (or parent or affiliates) is financially qualified to implement responsibilities under certificate; and (6) applicant (and parent and affiliates) in substantial compliance with other environmental laws. Amends GS 143-215.6A(a), which provides for \$10,000 civil penalty for violation of various statutes, to include violation of Comm'n rules under this part and failure to secure certificate, or abide by certificate, required by part. Makes conforming amendments to other statutes. Effective July 1, 1993. Senate committee substitute adds new provision that the following do not qualify as water transfers: the discharge of water upstream from the point where it is withdrawn and the discharge of water downstream from the point where it is drawn. Requires that a person constructing a facility designed to increase existing water transfer, if increase will equal or exceed capacity of existing facilities on 1 July 1993 by 125%, be certified by the

Environmental Management Comm'n (was 25% increase in capacity and no date limit on capacity). In the Comm'n certification process, the committee substitute replaces six-factor test outlined in original digest with simple weighing of benefits and detriments. Removes an applicant's efforts and plans to impound water from items to be considered in certification. Removes from original bill the revision of GS 153A-285 (local gov't water acquisition). Senate amendment adds two new items to GS 143-215.22I(e) as to which the Comm'n must specifically make findings before issuing a certificate for a transfer: (1) the applicant's present and proposed use of impoundment storage capacity to store water during high flow periods for use during low flow periods and right of withdrawal; and (2) whether the water to be withdrawn or transferred is stored in a multi-purpose reservoir constructed by the US Army Corps of Engineers and the purposes and water storage allocations established for the reservoir at the time the reservoir was authorized by Congress.

**EFFECTIVE DATE:** July 1, 1993

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:**

Division of Water Resources--Department of Environment, Health, and Natural Resources.

**FISCAL IMPACT**

	<u>FY93/94</u>	<u>FY94/95</u>	<u>FY95/96</u>	<u>FY96/97</u>	<u>FY97/98</u>
<b>EXPENDITURES</b>					
<b>TOTAL EXPENDITURES</b>	-0-	70,000	-0-	70,000	-0-
<b>STATE FUNDS</b>	-0-	40,000	-0-	40,000	-0-
<b>FEDERAL FUNDS</b>					
<b>LOCAL FUNDS</b>	-0-	30,000	-0-	30,000	-0-
<b>OTHER FUNDS</b> (see explanation immediately below)					
<b>RECEIPTS/FEEES</b>					

**Local Government Costs**--An average sized water system applying for an interbasin transfer can be expected to pay approximately \$30,000 per completed application. The cost-items that comprise this sum include the following: preparing an application; sending out public notice; holding a public hearing; preparing a finding of facts; and preparing an environmental review. As noted below under the heading "Assumptions," only one local government application for an interbasin transfer is expected to occur every two years. Therefore, the average cost to local government as a whole is expected to be approximately \$30,000 once every two years.

**State Government Costs**--State related cost-items associated with reviewing an interbasin transfer application include the following: reviewing an application; sending out public notice; holding a public hearing; preparing hydrologic modeling; preparing a finding of facts; preparing an environmental review; and facilitating a review before the Environmental Review Commission. The Division of Water Resources has estimated its cost to process an interbasin transfer application to be approximately \$40,000 per application, once every two years.

**Total Cost**--The total cost to the State and affected local governments is estimated to be approximately \$70,000, once every two years.

**POSITIONS:**

According to the Division of Water Resources, the sporadic nature of interbasin transfers would not justify the hiring of specific staff for duties solely related to the intent of this bill. Therefore, existing levels of Staff at the time of an interbasin transfer application will be used for the required certification process.

**ASSUMPTIONS AND METHODOLOGY:**

1. A key factor used in determining the annual total cost of Senate Bill 875 is the expected number of applications for interbasin transfers that will be made by local water systems each year. To determine this number the following assumptions were made:

a. In any two year period, approximately ten (10) local water systems will expand their capacity;

b. Of the ten (10) water systems that expand their capacity over a two-year period, approximately ten percent (10%) or one (1) water system will require an interbasin transfer.

2. The estimated costs to the state and affected local governments are "average costs." It is estimated that the costs in any single interbasin transfer application could range as high as \$100,000 or as low as \$10,000.

3. The North Carolina Environmental Policy Act and related administrative rules require that every new or expansion based water supply project in excess of 1,000,000 gallons per day have an Environmental Assessment (EA) completed. The information collected from the required EA can be used to fulfill, in part, the requirements for an interbasin transfer application and thereby lowers the cost to local government for meeting the requirements in Senate Bill 875. The estimated savings earned from using available EA data in an interbasin transfer application has been incorporated into the cost estimates provided.

**SOURCES OF DATA:**

Bill Summary: IOG Daily Bulletin

Fiscal Data: Division of Water Resources--Department of Environment, Health, and Natural Resources.

**TECHNICAL CONSIDERATIONS:**

**FISCAL RESEARCH DIVISION**

**733-4910**

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**DATE:** May 12, 1993



**Signed Copy Located in the NCGA Principal Clerk's Offices**