GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

S **3**

SENATE BILL 981

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/1/05
Third Edition Engrossed 6/1/05

Short Title: Drinking Water Supply Reservoir Protection. (Public)

Sponsors:

Referred to:

March 24, 2005

A BILL TO BE ENTITLED

AN ACT TO DIRECT THE ENVIRONMENTAL MANAGEMENT COMMISSION: (1) TO STUDY WATER QUALITY IN DRINKING WATER SUPPLY RESERVOIRS IN THE STATE, (2) TO ADOPT NUTRIENT CONTROL CRITERIA FOR DRINKING WATER SUPPLY RESERVOIRS, (3) TO DEVELOP AND IMPLEMENT A NUTRIENT MANAGEMENT STRATEGY FOR CERTAIN DRINKING WATER SUPPLY RESERVOIRS THAT ARE IMPAIRED OR THAT MAY BECOME IMPAIRED WITHIN FIVE YEARS, (4) NOT TO MAKE ANY NEW OR INCREASED NUTRIENT LOADING ALLOCATION TO ANY IMPAIRED DRINKING WATER SUPPLY RESERVOIR UNTIL RULES TO IMPLEMENT A NUTRIENT MANAGEMENT STRATEGY FOR THAT RESERVOIR BECOME EFFECTIVE, AND (5) TO REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION ON PROGRESS IN DEVELOPING AND IMPLEMENTING NUTRIENT MANAGEMENT STRATEGIES FOR DRINKING WATER SUPPLY RESERVOIRS WITH IMPAIRED WATER QUALITY.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative findings. – The General Assembly finds that:

(1) Drinking water supply reservoirs are an essential source of water needed to meet municipal, industrial, and agricultural needs.

(2) Drinking water supply reservoirs provide recreational opportunities and wildlife habitat and, if properly managed, improve water quality.

(3) Management and protection of the quality and quantity of water in drinking water supply reservoirs are essential to the economic vitality of North Carolina.

(4) Excessive nutrients are a major source of impairment of water quality in drinking water supply reservoirs.

(5) It would be beneficial for the State to study the condition of drinking water supply reservoirs and to develop nutrient control criteria to prevent drinking water supply reservoirs from becoming impaired.

(6) It would be beneficial for the State to develop calibrated nutrient response models and nutrient management strategies to ensure that drinking water supply reservoirs that are showing evidence of impairment are protected, as envisioned by Part 1 of Article 21 of Chapter 143 of the General Statutes and S.L. 1997-458, the Clean Water Responsibility and Environmentally Sound Policy Act.

SECTION 2.(a) Study of drinking water supply reservoirs. – The Environmental Management Commission shall study the water quality in the drinking water supply reservoirs in the State to determine whether the reservoirs meet current water quality standards. The Commission shall analyze existing data and report its findings and recommendations to the Environmental Review Commission by 1 May 2006.

SECTION 2.(b) Nutrient control criteria. – Based on the results of the study of drinking water supply reservoirs and an evaluation of current water quality standards, the Environmental Management Commission shall identify any nutrient control criteria necessary to prevent excess nutrient loading in each drinking water supply reservoir in order to protect public health and other designated uses by 1 January 2009. The Commission shall adopt final nutrient control criteria for each drinking water supply reservoir by 1 May 2010. If the Commission finds that the nutrient control criteria for any drinking water supply reservoir are not being achieved, the Commission shall develop and implement a plan for enhanced water quality monitoring in that drinking water supply reservoir within one year of the determination. The Commission shall report its progress in implementing this section, including its findings and recommendations, to the Environmental Review Commission as a part of each quarterly report it makes pursuant to G.S. 143B-282(b).

SECTION 3.(a) Applicability of section to certain reservoirs. – This section applies only to drinking water supply reservoirs that meet all of the following criteria as of 1 July 2005:

(1) The reservoir serves a population greater than 300,000 persons.

(2) The Environmental Management Commission has classified all or any part of the water in the reservoir as a nutrient sensitive water (NSW).

(3) Water quality monitoring data indicates that water quality in the reservoir violates the chlorophyll A standard.

(4) The Division of Water Quality of the Department of Environment and Natural Resources has not prepared or updated a calibrated nutrient response model for the reservoir since 1 July 2002.

SECTION 3.(b) Temporary limitation on increased nutrient loading. – If the Environmental Management Commission determines either that water quality in all or in any part of a drinking water supply reservoir to which this section applies does not meet current water quality standards or that it is likely that water quality will not meet water quality standards at any time prior to 1 July 2010, the Commission shall not make

any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into that reservoir. This limitation on new or increased nutrient loading allocation shall not be construed to prohibit a person who holds a permit for a wastewater discharge into a drinking water supply reservoir from purchasing a nutrient loading allocation from another person who holds a permit for a wastewater discharge into the same drinking water supply reservoir. This subsection expires with respect to a drinking water supply reservoir when permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective.

SECTION 3.(c) Nutrient management strategy. – The Environmental Management Commission shall develop a nutrient management strategy for drinking water supply reservoirs to which this section applies by 1 July 2008. The nutrient management strategy shall be based on a calibrated nutrient response model that meets the requirement of G.S. 143-215.1(c5). The nutrient management strategy shall include specific mandatory measures to achieve the reduction goals. The Commission shall consider the cost of the proposed measures in relation to the effectiveness of the measures. These measures could include, but are not limited to, buffers, erosion and sedimentation control requirements, post-construction stormwater management, agricultural nutrient reduction measures, the addition of nutrient removal treatment processes to point source permitted wastewater treatment plants, the removal of point source discharging wastewater treatments through regionalization and conversion to non-discharge treatment technologies, and any other measures that the Commission determines to be necessary to meet the nutrient reduction goals. To the extent that one or more other State programs already mandate any of these measures, the nutrient management strategy shall incorporate the mandated measures and any extension of those measures and any additional measures that may be necessary to achieve the nutrient reduction goals. In making a nutrient loading allocation to a permit holder, the Commission shall, to the extent allowed by federal and State law, give consideration to all voluntary efforts taken by the permit holder to protect water quality prior to the development of the nutrient management strategy.

SECTION 3.(d) Eligibility under the Clean Water Revolving Loan and Grant Act. – The definitions set out in G.S. 159G-3 apply to this subsection. The operator of a wastewater treatment works that is owned by an agency of the State may apply for a loan or grant under Chapter 159G of the General Statutes on the same basis as any other applicant if the operator is a local government unit and if the local government unit operates the wastewater treatment works pursuant to a contract with the State agency that contemplates that the local government unit will eventually acquire ownership of the wastewater treatment works.

SECTION 3.(e) Implementation; rulemaking. – The Environmental Management Commission shall adopt permanent rules to implement the nutrient management strategies required by this section by 1 July 2008. The rules shall require that reductions in nutrient loading from all sources begin no later than five years after the rules become effective.

SECTION 3.(f) Reports. – The Environmental Management Commission shall report its progress in implementing this section to the Environmental Review Commission as a part of each quarterly report it makes pursuant to G.S. 143B-282(b).

SECTION 4. Other drinking water supply reservoirs. – The Environmental Management Commission shall not make any new or increased nutrient loading allocation to any person who is required to obtain a permit under G.S. 143-215 for an individual wastewater discharge directly or indirectly into any drinking water supply reservoir for which the Division of Water Quality of the Department of Environment and Natural Resources has prepared or updated a calibrated nutrient response model since 1 July 2002 until permanent rules adopted by the Commission to implement the nutrient management strategy for that reservoir become effective. The Commission shall report its progress in developing and implementing nutrient management strategies for reservoirs to which this section applies to the Environmental Review Commission by 1 April 2006.

SECTION 5. Effective date. – This act is effective when it becomes law.