



HOUSE BILL 186: Cape Fear Water Resources Availability Study

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2016-196

Date:

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SUMMARY: *S.L. 2015-196, as amended by Sec. 86.2 of S.L. 2015-264, (i) directs the Environmental Review Commission, with the assistance of the Department of Environment and Natural Resources, to study the availability of surface water and groundwater resources in or affecting the Cape Fear River Basin and (ii) authorizes the Rules Review Commission to retain private counsel under certain circumstances.*

This act became effective August 5, 2015.

CURRENT LAW and BILL ANALYSIS:

Section 1

G.S. 143-355(o) directs the Department of Environment and Natural Resources (DENR) to develop basinwide hydrologic models for each of the 17 major river basins in North Carolina that include surface water and groundwater resources within the river basin, transfers into and out of the river basin that are required to be registered pursuant to the statutes governing interbasin transfers, other withdrawals, ecological flow, in-stream flow requirements, projections of future withdrawals, an estimate of return flows within the river basin, inflow data, local water supply plans, and other information DENR deems relevant. The law directs DENR to submit completed models to the Environmental Management Commission (EMC) for approval following notice and receipt of public comment.

Section 1 of the act directs the Environmental Review Commission (ERC), with DENR's assistance, to study the aggregate uses of and surface water and groundwater in or affecting the Cape Fear River Basin (Basin) by all users. The study must include the following:

- A summary of the current and 50-year projected water-use demands and the available water supplies within the Basin.
- An evaluation of the adequacy of currently available supplies to meet long-range demand and identification of areas that do not have a sustainable long-term water supply to meet anticipated demand.
- Identification of potential conflicts among users and mechanisms for minimizing conflicts.
- An enhanced review of the increased demands on groundwater and limited surface water resources in the portions of Brunswick, New Hanover, and Pender counties located within the Basin.

The ERC may make an interim report to the 2016 General Assembly and must submit a final report of its findings and recommendations, including legislative proposals, to the 2017 General Assembly.

Section 2

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G.S. 114-2.3 and G.S. 147-17 provide for limited circumstances in which private counsel may be employed in any case or proceeding wherein the State is interested. Generally, no agency, institution, department, bureau, board, or commission of the State may employ or retain private counsel without approval of the Governor upon the Governor's receipt of advice from the Attorney General that the Attorney General finds it impracticable to render legal services.

Section 2 of the act amends the statute governing the creation of the Rules Review Commission to exempt the Commission from the limitations pertaining to private counsel articulated in G.S. 114-2.3 and G.S. 147-17. This section authorizes the chairman of the Commission to retain private counsel if the Commission is being sued by another agency, institution, department, bureau, board, or commission of the State, whether that body is created by the Constitution or by statute, provided certain enumerated conditions are met.

EFFECTIVE DATE: This act became effective August 5, 2015.

BACKGROUND: According to the [November 2014 DENR report](#) on the development of basinwide hydrologic models, the Cape Fear River Basin model was first completed in 2003, was updated and validated by DENR in 2013, and presented to the EMC in 2014 for approval.