

# Draft Surface Water Permitting Legislation for South Carolina



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*Catawba/Wateree Basin Advisory  
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# *Surface Water Quantity Laws*

- Interbasin Transfer of Water Act
- Surface Water Withdrawal & Reporting Act
- SC Drought Response Act

# *Interbasin Transfer Act*

- All surface water transfers to another basin over one million gallons or more in any day requires a permit

# *Surface Water Withdrawal and Reporting Act*

- All surface water withdrawals over 3 million gallons in any month must be registered and reported to DHEC annually
- DHEC publishes an annual water use report showing how much water used for irrigation, water supply, industry, etc.

# *Issues*

- DHEC has no authority to regulate withdrawals that are not Interbasin transfers
- No protection for existing users or minimum flows to protect water quality
- A new withdrawal could take significant, and potentially harmful, quantities out of a surface water with no oversight

# *Issues*

- Other states in Region 4 (Florida, Georgia, and Kentucky) currently issue permits for surface water withdrawals
- NC has authority through their Capacity Use Program
- Negotiations with neighboring states difficult if SC cannot regulate its withdrawals

# *Governor's Water Law Review Committee: Recommendations*

- Should establish minimum flow of water to support instream needs for all rivers and streams
- A permit should be required for surface water withdrawals greater than 3 million gallons per month
- Clearly establish regulated riparian rights

## *Solution*

- Rather than draft completely new legislation regulating surface water, modify the existing Surface Water Withdrawal and Reporting Act
- Incorporate IBT and address recommendations from the Governor's Water Law Review Committee



# *Senate Bill 1159*

- Existing surface water users “grandfathered”
- Permitting criteria based on reasonable and beneficial use (as in groundwater permitting)
- Permitting criteria same as evaluation of IBT – the effects on river segment losing water the same if transferred or consumed

## *Senate Bill 1159*

- Minimum stream flow default is 7Q10
- Minimum stream flow greater than 7Q10 may be established by regulation
- New withdrawals must ensure that at least 7Q10 and sufficient water for downstream uses maintained
- Protective of water quality, fish, wildlife, etc.

# *Senate Bill 1159*

- Conservation plan and low flow plan required
- For transfers out of basin, in addition to the other permitting criteria, must ensure protection of the receiving stream's water quality
- Under severe drought conditions, Drought Act is the controlling legislation

# *Senate Bill 1159*

## *Regulated Riparian Model*

- Waters of the state are a natural resource owned by the State in trust for the public
- Establishes a system of permits that make a water right a matter of legal record entitled to legal protection
- Uses on non-riparian lands are lawful and entitled to equal consideration with uses on riparian lands
- Water is to be managed for the public benefit, with respect for future generations, not a commodity but managed as a resource to be shared equally by the people of South Carolina

# *Questions?*

“When the well is dry, we learn the worth of water” – Benjamin Franklin