

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 1138
SENATE BILL 825

AN ACT TO AMEND THE SMALL WATERSHED LAWS CONCERNING
ESTABLISHMENT OF WATERSHED IMPROVEMENT DISTRICTS, OPERATION OF
PROJECTS BY SOIL AND WATER CONSERVATION DISTRICTS, AND
CHANNELIZATION PROJECTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 139-16 is amended by changing the period at the end of line 3 thereof to a semicolon, and adding after the semicolon the words: "provided that no watershed improvement district may be established on or after January 1, 1972."

Sec. 1A. G.S. 139-3(17) is hereby amended by adding:

"f. By any watershed, drainage or flood control project planned or carried out by the Soil Conservation Service, Tennessee Valley Authority or the Army Corps of Engineers."

Sec. 2. G.S. 139-41 is hereby amended by redesignating subsections (d), (e) and (f) of said section as subsections (e), (f) and (g), respectively, and by inserting in said section a new subsection (d) to read as follows:

"(d) The board of county commissioners, as an alternative to itself exercising the powers set forth in subsection (a) of this section or to creating a watershed improvement commission for that purpose, may by resolution designate the soil and water conservation district having jurisdiction in the county to exercise authority for the board of county commissioners in carrying out the county watershed improvement program. The provisions of G.S. 139-22 and G.S. 139-23 concerning the organization and compensation of the elected board of trustees of a watershed improvement district, and concerning the power and duties of such trustees respecting personnel, surety bonds and audits, shall apply to any soil and water conservation district so designated. The soil and water conservation district shall provide the board of county commissioners 30 days prior to July 1 a proposed budget for the fiscal year commencing on July 1 and shall provide the board of county commissioners an audit by a certified public accountant within 60 days after the expiration of the fiscal year ending on June 30."

Sec. 3. Article 3 of General Statutes Chapter 139 is hereby amended by adding thereto a new section, to be numbered G.S. 139-47, and to read as follows:

"§ 139-47. Procedures to be followed in connection with watershed improvement or drainage projects that involve channelization. — (a) As used in this section:

- (i) The term 'channelization' means channel excavation but does not include channel clearing and snagging work. Determinations by the Board of Water and Air Resources that a project involves channelization shall be conclusive for purposes of this section.
- (ii) The term 'channel excavation' means the construction or enlargement of a channel by the removal and disposal of material by excavation to facilitate runoff of flood water or drainage of water.
- (iii) 'Channel clearing and snagging' means the removal and disposal of trees, snags, drifts, boulders or other obstructions from the flow area of a natural or excavated channel.

(b) A notice of public hearing for every preliminary project investigation of the Soil Conservation Service or recommended report of the Army Corps of Engineers or any project planning report of the Tennessee Valley Authority concerning a watershed improvement project or drainage project that involves channelization shall be published in a newspaper of general circulation in the county or counties wherein any part of the project lies at least one time, not less than two weeks nor more than four weeks prior to the date of the public hearing. The notice shall include a map of the project, not less than 1/4 page in size, delineating the boundaries of the project and indicating the proposed works of improvement, including any channelization features.

(c) Following publication of the notice, the Board of Water and Air Resources (or its designee pursuant to G.S. 143-215.3(a)(4)) shall hold a public hearing in the county or counties wherein any part of the project lies to allow interested parties to be heard concerning the proposed project. The hearing shall be held pursuant to the provisions of G.S. 143-215.4(d), except that notice of the hearing shall be given as required by subsection (b) of this section. The decision of the Board shall be subject to judicial review pursuant to G.S. 143-215.5.

(d) Every preliminary project investigation or recommended report concerning a watershed improvement project or drainage project that involves channelization shall be submitted to the Board of Water and Air Resources for review and for approval or disapproval. Such review shall be prior to, and in addition to, the review of watershed work plans provided for by G.S. 139-35. The Board shall approve such investigation or report, following the public hearing held pursuant to subsection (c) of this section, if, in its judgement, the investigation or report shows that any channelization features of the proposed project are necessary to the project and that no other feasible alternatives are available. No work of improvement may be constructed or established without the approval of the preliminary project investigation or recommended report by the Board pursuant to this section. The construction or establishment of any such work of improvement without such approval, or without conforming to a preliminary project investigation or recommended report approved by the Board, may be enjoined. Provided, however, the provisions of this Act shall not apply to the activities and functions of the North Carolina State Board of Health and local health departments that are engaged in mosquito control for the protection of the health and welfare of the people of the coastal area of North Carolina as provided under G.S. 130-206 through 130-209. The Board may institute an action for injunctive relief in the superior court of any county wherein such construction or establishment takes place, and the procedure in such action shall be as provided in Article 37, Chapter 1 of the General Statutes."

Sec. 4. Subchapter III of the General Statutes Chapter 156 is hereby amended by adding thereto a new section, to be given an appropriate number, and to read as follows:

"§ 156-__. **Procedures to be followed in connection with drainage projects that involve channelization.** — Every drainage project that involves channelization shall be subject to the procedures set forth in G.S. 139-47."

Sec. 5. This act shall be in full force and effect from and after its ratification. Section 3 of this act shall apply only to projects as to which a preliminary project investigation or recommended report is issued, after the effective date of this act. However, this act shall apply to any Tennessee Valley Authority project not presently under construction.

In the General Assembly read three times and ratified, this the 21st day of July, 1971.