

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**HOUSE BILL 1054
RATIFIED BILL**

AN ACT TO PROVIDE THAT LOCAL GOVERNMENTS THAT ARE A PARTY TO THE SWIFT CREEK MANAGEMENT PLAN AND CERTAIN CITIZENS OF THOSE LOCAL GOVERNMENTS HAVE STANDING TO ENFORCE THE PROVISIONS OF S.L. 1998-192.

Whereas, in 1988, representatives of the County of Wake, the City of Raleigh, and the Towns of Apex, Cary, and Garner developed the Swift Creek Management Plan, a coordinated land-use plan for the Swift Creek watershed; and

Whereas, the local governments having jurisdiction over the area approved the Swift Creek Management Plan through appropriate action of their respective governing bodies; and

Whereas, in 1998, the General Assembly found that it was in the best interest of the citizens of the Swift Creek area and those local governments to maintain the Swift Creek Management Plan as agreed to by those local governments; and

Whereas, in order to maintain the Swift Creek Management Plan, the General Assembly enacted S.L. 1998-192, which provides that the local governments that are parties to the Swift Creek Management Plan shall not adopt, amend, or repeal any ordinance authorized by Article 18 of Chapter 153A of the General Statutes, Article 19 of Chapter 160A of the General Statutes, or under any local act or charter provision relating to the subject of those Articles, nor grant any permit or approval pursuant to those ordinances, that would be inconsistent with the standards and provisions of the Swift Creek Management Plan; and

Whereas, the General Assembly finds that it is in the best interests of the citizens of the Swift Creek area and the local governments that have agreed to maintain the Swift Creek Management Plan that the standing of these local governments and certain citizens of the Swift Creek area to enforce the provisions of S.L. 1998-192 be clarified; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1.(a) The provisions of Sections 1 through 3 of S.L. 1998-192 may be enforced as provided in this section.

SECTION 1.(b) Any local government that is a party to the Swift Creek Management Plan shall have standing to contest an action of another party to the Swift Creek Management Plan that the local government believes is inconsistent with the standards and provisions of the Swift Creek Management Plan in violation of the provisions of Sections 1 through 3 of S.L. 1998-192.

SECTION 1.(c) Any person who resides in the jurisdiction of a local government that is a party to the Swift Creek Management Plan and who also resides in the Swift Creek watershed shall have standing to contest an action of any party to the Swift Creek Management Plan that the person believes is inconsistent with the standards and provisions of the Swift Creek Management Plan in violation of the provisions of Sections 1 through 3 of S.L. 1998-192, provided that the person has a specific personal or legal interest in the action and is adversely affected thereby.

SECTION 1.(d) A local government or person who has standing under subsection (b) or (c) of this section may file a petition in the superior court of Wake

County seeking review of the action of a local government that the local government or person believes to be inconsistent with the standards and provisions of the Swift Creek Management Plan in violation of the provisions of Sections 1 through 3 of S.L. 1998-192. A petition under this section shall be filed no later than 60 days after the adoption, amendment, or repeal of the ordinance, the grant of the permit or approval, an extension of any utility, or other action the local government or person believes to be inconsistent with the standards and provisions of the Swift Creek Management Plan in violation of the provisions of Sections 1 through 3 of S.L. 1998-192.

SECTION 1.(e) A petition filed under this section shall state with specificity what exceptions are taken to the action of the respondent local government and what relief the petitioner seeks. Within 15 days after receipt of the copy of the petition for review, or within such additional time as the court may allow, the respondent local government shall transmit to the court a copy of the ordinance, permit, or approval and any other minutes or documents that constitute the record of the challenged action.

SECTION 1.(f) The court may hear oral arguments, receive written briefs, and take evidence on the question of whether or not there has been a violation of Sections 1 through 3 of S.L. 1998-192.

SECTION 1.(g) If the court determines that there has been a violation of Sections 1 through 3 of S.L. 1998-192, it shall declare the ordinance, permit, approval, or other action void and may order any additional relief that appears appropriate.

SECTION 2. This act shall not be construed to preclude a judicial determination, based on common-law principles, statutory provisions, or other law, that standing exists in a particular case for a person to bring an action to challenge an alleged violation of the Swift Creek Management Plan and the provisions of Sections 1 through 3 of S.L. 1998-192.

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 16th day of June, 2005.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives