

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE DRS85164-SB-12 (02/13)

Short Title: Beach Management Study Commission.

(Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO IMPOSE A MORATORIUM ON CERTAIN ACTIONS OF THE COASTAL RESOURCES COMMISSION RELATED TO TEMPORARY EROSION CONTROL STRUCTURES AND TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON BEACH MANAGEMENT ISSUES.

The General Assembly of North Carolina enacts:

SECTION 1.1. Definitions and Concepts. – The following definitions and concepts apply to this act and its implementation:

- (1) "Temporary erosion control structure" means a sandbag placed above mean high water and parallel to the shore.
- (2) A community is considered to be actively pursuing a beach nourishment or inlet relocation project under any of the following circumstances:
 - a. The community has a current and valid Coastal Area Management Act permit for the project.
 - b. The community has been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers.
 - c. The community has received a favorable economic evaluation report on a federal project or is in the planning stages of a project that (i) has been designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and (ii) has been initiated by a local government or community working toward the identification and adoption of a mechanism to provide the necessary local or State funds to construct the project.

SECTION 1.2. Moratorium Established. – Notwithstanding Article 7 of Chapter 113A of the General Statutes and rules adopted pursuant to Article 7, there is hereby established a moratorium on certain actions of the Coastal Resources Commission related to temporary erosion control structures. The Commission shall not order the removal of a temporary erosion control structure located in a community that is actively pursuing a beach nourishment project or an inlet relocation project on or before the effective date of this act.

SECTION 1.3. Exceptions. – The moratorium on certain actions by the Coastal Resources Commission related to temporary erosion control structures shall not prohibit the



1 Commission from granting permit modifications for the repair and maintenance of temporary
2 erosion control structures.

3 **SECTION 2.1.** Study Commission Established. – There is hereby established the
4 Legislative Study Commission on Beach Management Issues.

5 **SECTION 2.2.** Study. – The Commission shall study existing law and policies
6 related to beach management and determine how the State can best develop and implement a
7 comprehensive, long-term beach management strategy that recognizes and protects the
8 environmental, recreational, and economic value of the beaches of the State and that ensures
9 that the beaches remain open and accessible to the public. The Commission shall specifically
10 consider the following issues:

- 11 (1) How local governments and private property owners might more effectively
12 protect public and private resources in a manner that is consistent with
13 public trust rights, but that minimizes the loss of public and private property.
- 14 (2) New beach management tools, including publicly funded financial assistance
15 programs, to enable the State and local governments to address long-term
16 shoreline erosion loss and that could involve the rebuilding, realignment, or
17 removal of imminently threatened structures and infrastructure.
- 18 (3) The effectiveness and feasibility of new and innovative financing
19 mechanisms, land use policies, incentives for the relocation of imminently
20 threatened structures, and hazard mitigation programs that will further the
21 objective of North Carolina's long-term comprehensive beach management
22 strategy. These approaches may include, but are not limited to, the
23 authorization of special trust funds and the formation of revolving funds to
24 fund, in part, beach nourishment and inlet relocation projects, erosion
25 insurance mechanisms, density restrictions on new oceanfront structures;
26 building setback standards; erosion response measures using innovative
27 technology and design; and State policy mechanisms for helping to direct
28 federal programs and funds to reinforce North Carolina's comprehensive,
29 long-term beach management strategy.
- 30 (4) Any other issues related to protecting the environmental, recreational, and
31 economic value of the beaches of the State and ensuring that the beaches
32 remain open and accessible to the public.

33 **SECTION 2.3.** Membership. – The Commission shall be composed of 17 members
34 as follows:

- 35 (1) Six members of the Senate, appointed by the President Pro Tempore of the
36 Senate.
- 37 (2) Six members of the House of Representatives, appointed by the Speaker of
38 the House of Representatives.
- 39 (3) The Executive Director of the North Carolina Beach, Inlet and Waterway
40 Association or the Executive Director's designee.
- 41 (4) The Executive Director of the North Carolina Coastal Federation or the
42 Executive Director's designee.
- 43 (5) The Chair of the North Carolina Coastal Resources Commission or the
44 Chair's designee.
- 45 (6) The Chair of the Marine Fisheries Commission or the Chair's designee.
- 46 (7) The Chair of the Environmental Management Commission or the Chair's
47 designee.

48 **SECTION 2.4.** Cochairs; Vacancies. – The President Pro Tempore of the Senate
49 shall designate a cochair from among the President Pro Tempore's appointees. The Speaker of
50 the House of Representatives shall designate a cochair from among the Speaker's appointees.
51 Vacancies on the Commission shall be filled by the appointing authority.

1 **SECTION 2.5.** Quorum. – A quorum of the Commission shall consist of nine
2 members of the Commission.

3 **SECTION 2.6.** Other Powers. –

4 (a) The Commission, while in the discharge of its official duties, may exercise
5 all powers provided for under G.S. 120-19 and G.S. 120-19.1 through
6 G.S. 120-19.4. The Commission may meet at anytime upon the joint call of
7 the cochairs. The Commission may meet in the Legislative Building or the
8 Legislative Office Building.

9 (b) With approval of the Legislative Services Commission, the Legislative
10 Services Officer shall assign professional staff to assist the Commission in
11 its work. The House of Representatives' and the Senate's Directors of
12 Legislative Assistants shall assign clerical staff to the Commission, and the
13 expenses relating to the clerical employees shall be borne by the
14 Commission. The Commission may contract for professional, clerical, or
15 consultant services as provided by G.S. 120-32.02. If the Commission hires
16 a consultant, the consultant shall not be a State employee or a person
17 currently under contract with the State to provide services.

18 (c) Members of the Commission shall receive subsistence and travel expenses at
19 the rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

20 (d) All State departments and agencies and local governments and their
21 subdivisions shall furnish the Commission with any information in their
22 possession or available to them.

23 **SECTION 2.7.** Report. – No later than April 1, 2010, the Commission shall report
24 its findings, including any recommended legislation, to the Environmental Review
25 Commission. The Commission shall terminate upon filing its report or upon the convening of
26 the 2010 Regular Session of the 2009 General Assembly, whichever is earlier.

27 **SECTION 3.** This act is effective when it becomes law. Section 1 of this act
28 expires September 1, 2010.