A BILL TO BE ENTITLED

AN ACT TO STUDY AND MODIFY CERTAIN COASTAL MANAGEMENT POLICIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-103(2) reads as rewritten:

"(2) "Coastal area" means the counties that (in whole or in part) are adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean (extending offshore to the limits of State jurisdiction, as may be identified by rule of the Commission for purposes of this Article, but in no event less than three geographical miles offshore) or any coastal sound. The Governor, in accordance with the standards set forth in this subdivision and in subdivision (3) of this section, shall designate the counties that constitute the "coastal area," as defined by this section, and his designation shall be final and conclusive. On or before May 1, 1974, the Governor shall file copies of a list of said coastal-area counties with the chairmen of the boards of commissioners of each county in the coastal area, with the mayors of each incorporated city within the coastal area (as so defined) having a population of 2,000 or more and of each incorporated city having a population of less than 2,000 whose corporate boundaries are contiguous with the Atlantic Ocean, and with the Secretary of State. By way of illustration, the counties designated as coastal-area counties under this subdivision as of July 1, 2012, are: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell, and Washington. The said coastal-area counties and cities shall thereafter transmit nominations to the Governor of members of the Coastal Resources Commission as provided in G.S. 113A-104(d)."

SECTION 2. Article 7 of Chapter 113A of the General Statutes is amended by adding the following new section:


(a) No rule, ordinance, policy, or planning guideline that defines sea level or a rate of sea-level rise within a coastal-area county shall be adopted except as provided by this section.

(b) The General Assembly does not intend to mandate the development of sea-level rise policy or rates of sea-level rise. The Coastal Resources Commission, in conjunction with the
Division of Coastal Management, shall have the authority to define sea-level rise and develop
rates of sea-level rise for the State.

c) The Coastal Resources Commission shall be the only State agency authorized to
define rates of sea-level rise for regulatory purposes and, if developed, shall do so in
conjunction with the Division of Coastal Management. The Commission and the Division of
Coastal Management may collaborate with other State agencies, boards, commissions, other
public entities, or institutions when defining sea-level rise or developing rates of sea-level rise.
These rates shall be determined using statistically significant, peer-reviewed historical data
generated using generally accepted scientific and statistical techniques. Historic rates of
sea-level rise may be extrapolated to estimate future rates of rise but shall not include scenarios
of accelerated rates of sea-level rise unless such rates are from statistically significant,
peer-reviewed data and are consistent with historic trends. Rates of sea-level rise shall not be
one rate for the entire coast, but rather the Commission shall consider separately oceanfront and
estuarine shorelines. For oceanfront shorelines, the Commission shall use no fewer than the
four regions defined in the April 2011 report entitled "North Carolina Beach and Inlet
Management Plan" published by the Department of Environment and Natural Resources. The
oceanfront regions are: Region 1 (Brunswick County), Region 2 (New Hanover, Pender, and
Onslow Counties and a portion of Carteret County), Region 3 (a portion of Carteret County and
Hyde County), and Region 4 (Dare and Currituck Counties). For estuarine shorelines, the
Commission shall consider fewer than two separate regions defined as those north of Cape
Lookout and those south of Cape Lookout. In regions that may lack statistically significant,
peer-reviewed historical data, rates from adjacent regions may be considered and modified
using generally accepted scientific and statistical techniques to account for relevant historical
geologic and hydrologic processes.

d) Any State agency, board, commission, or institution that develops a policy
addressing sea-level rise that includes a definition or rate of sea-level rise for the coastal-area
counties shall use only the definitions and rates of sea-level rise developed by the Division of
Coastal Management as approved by the Coastal Resources Commission.

e) The provisions in this act shall not prohibit other State agencies, boards,
commissions, other public entities or institutions, including academic institutions within the
University of North Carolina, or any county, municipality, or other local public body from
engaging in studies and dissemination of studies of sea-level research for nonregulatory
purposes. Collaboration between academic institutions, including those within the University
of North Carolina, the Division of Coastal Management, the Coastal Resources Commission,
and other State agencies, boards, commissions, or other public entities or counties,
municipalities, or other local public bodies regarding generally accepted, peer-reviewed
scientific and statistically significant sea-level research is encouraged.

f) All policies, rules, regulations, or any other product of the Commission or the
Division of Coastal Management related to sea-level rise shall be subject to the requirements
set forth in Chapter 150B of the General Statutes."

SECTION 3. The Coastal Resources Commission shall study the feasibility of
creating an exception to the Commission's rule changes regarding oceanfront setback
determinations (15A NCAC 07H .0306(a)(2)) that became effective on August 11, 2009, that
may allow certain structures to continue to be regulated under the oceanfront setback
determination rules that were in effect prior to August 11, 2009. The exception may apply to
single-family buildings built prior to August 11, 2009, that are larger than 5,000 square feet and
to multifamily buildings built prior to August 11, 2009, that are less than four units and larger
than 5,000 square feet. In its study, the Commission may consider the following limitations
and evaluate whether it is appropriate to include any of those limitations as part of the criteria
that may be used to determine whether a specific structure may qualify for the exception:
replacement of a building or structure destroyed beyond fifty percent (50%) of its value by
factors other than coastal erosion, storm surge, and hurricane- and nor'easter-related winds;
replacement of a building or structure in areas landward of a static line exception; replacement
of a building or structure as far landward on the lot as feasible; replacement of a building or
structure with a total floor area and footprint not greater than the preexisting building or
structure; and replacement of a building or structure that is no further oceanward than the
landward most adjacent building or structure.

The Commission shall use the most recent erosion rates calculated by the Division
of Coastal Management and presented to the Commission in 2011 rather than the 1998 rates
reference[d] in the rule (15A NCAC 07H .0304(1)(a)) when assessing setback scenarios and the
feasibility of any exception to the current setback rules.

The Commission shall report its findings, including any proposed actions the
Commission deems appropriate, to the Secretary of the Department of Environment and
Natural Resources, the Governor, the President Pro Tempore of the Senate, and the Speaker of
the House of Representatives on or before December 31, 2012.

During this study, the Commission shall not delay the movement or progression of
the updated 2011 erosion rates through the rule-making process.

SECTION 4. The Coastal Resources Commission shall study the feasibility of
creating a new Area of Environmental Concern for the lands adjacent to the mouth of the Cape
Fear River. In studying this region, which shall at least encompass the Town of Caswell Beach
and the Village of Bald Head Island, the Commission shall consider the unique coastal
morphologies and hydrographic conditions not found elsewhere along the coast. If the
Commission deems action is necessary to preserve, protect, and balance the economic and
natural resources of this region, the Commission shall work to eliminate overlapping Areas of
Environmental Concern in these areas and, instead, incorporate appropriate development
standards into one single Area of Environmental Concern unique to this location.

The Commission shall report its findings, including any proposed actions the
Commission deems appropriate, to the Secretary of the Department of Environment and
Natural Resources, the Governor, the President Pro Tempore of the Senate, and the Speaker of
the House of Representatives on or before December 31, 2013.

SECTION 5. The Coastal Resources Commission shall study the feasibility of
eliminating the Inlet Hazard Area of Environmental Concern and incorporating appropriate
development standards adjacent to the State's developed inlets into the Ocean Erodible Area of
Environmental Concern. If the Commission deems action is necessary to preserve, protect, and
balance the economic and natural resources adjacent to inlets, the Commission shall consider
the elimination of the inlet hazard boxes; the development of shoreline management strategies
that take into account short- and long-term inlet shoreline oscillation and variation, including
erosion rates and setback factors; the development of standards that account for the lateral
movement of inlets and their impact on adjacent development and habitat; and consideration of
how new and existing development standards, as well as existing and proposed development,
are impacted by historical and ongoing beach and inlet management techniques, including
dredging, beach fill, and engineered structures such as groins and jetties, impact both the inlet
and adjacent shorelines.

The Commission shall report its findings, including any proposed actions the
Commission deems appropriate, to the Secretary of the Department of Environment and
Natural Resources, the Governor, the President Pro Tempore of the Senate, and the Speaker of
the House of Representatives on or before January 31, 2015.

SECTION 6. This act is effective when it becomes law.