

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2012-202
HOUSE BILL 819**

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.(a) Article 7 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-107.1. Sea-level policy.

(a) The General Assembly does not intend to mandate the development of sea-level policy or the definition of rates of sea-level change for regulatory purposes.

(b) No rule, policy, or planning guideline that defines a rate of sea-level change for regulatory purposes shall be adopted except as provided by this section.

(c) Nothing in this section shall be construed to prohibit a county, municipality, or other local government entity from defining rates of sea-level change for regulatory purposes.

(d) All policies, rules, regulations, or any other product of the Commission or the Division related to rates of sea-level change shall be subject to the requirements of Chapter 150B of the General Statutes.

(e) The Commission shall be the only State agency authorized to define rates of sea-level change for regulatory purposes. If the Commission defines rates of sea-level change for regulatory purposes, it shall do so in conjunction with the Division of Coastal Management of the Department. The Commission and Division may collaborate with other State agencies, boards, and commissions; other public entities; and other institutions when defining rates of sea-level change."

SECTION 2.(b) The Coastal Resources Commission and the Division of Coastal Management of the Department of Environment and Natural Resources shall not define rates of sea-level change for regulatory purposes prior to July 1, 2016.



SECTION 2.(c) The Coastal Resources Commission shall direct its Science Panel to deliver its five-year updated assessment to its March 2010 report entitled "North Carolina Sea Level Rise Assessment Report" to the Commission no later than March 31, 2015. The Commission shall direct the Science Panel to include in its five-year updated assessment a comprehensive review and summary of peer-reviewed scientific literature that address the full range of global, regional, and North Carolina-specific sea-level change data and hypotheses, including sea-level fall, no movement in sea level, deceleration of sea-level rise, and acceleration of sea-level rise. When summarizing research dealing with sea level, the Commission and the Science Panel shall define the assumptions and limitations of predictive modeling used to predict future sea-level scenarios. The Commission shall make this report available to the general public and allow for submittal of public comments including a public hearing at the first regularly scheduled meeting after March 31, 2015. Prior to and upon receipt of this report, the Commission shall study the economic and environmental costs and benefits to the North Carolina coastal region of developing, or not developing, sea-level regulations and policies. The Commission shall also compare the determination of sea level based on historical calculations versus predictive models. The Commission shall also address the consideration of oceanfront and estuarine shorelines for dealing with sea-level assessment and not use one single sea-level rate for the entire coast. 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. In regions that may lack statistically significant data, rates from adjacent regions may be considered and modified using generally accepted scientific and statistical techniques to account for relevant geologic and hydrologic processes. The Commission shall present a draft of this report, which shall also include the Commission's Science Panel five-year assessment update, to the general public and receive comments from interested parties no later than December 31, 2015, and present these reports, including public comments and any policies the Commission has adopted or may be considering that address sea-level policies, to the General Assembly Environmental Review Commission no later than March 1, 2016.

SECTION 3.(a) Notwithstanding Article 7 of Chapter 113A of the General Statutes and rules adopted pursuant to that Article, the Coastal Resources Commission shall not deny a development permit for the replacement of a single-family or duplex residential dwelling with a total floor area greater than 5,000 square feet based on failure to meet the ocean hazard setback required under 15A NCAC 07H .0306(a)(2) if the structure meets all of the following criteria:

- (1) The structure was originally constructed prior to August 11, 2009.
- (2) The structure as replaced does not exceed the original footprint or square footage.
- (3) The structure as replaced meets the minimum setback required under 15A NCAC 07H .0306(a)(2)(A).
- (4) It is impossible for the structure to be rebuilt in a location that meets the ocean hazard setback criteria required under 15A NCAC 07H .0306(a)(2).
- (5) The structure is rebuilt as far landward on the lot as feasible.

SECTION 3.(b) No later than October 1, 2012, the Coastal Resources Commission shall adopt temporary rules consistent with the provisions of subsection (a) of this section. Notwithstanding G.S. 150B-19(4), the rules adopted by the Commission pursuant to this section shall be substantively identical to the provisions of subsection (a) of this section. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

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. As part of this study, the Commission shall collaborate with the Town of Caswell Beach, the Village of Bald Head Island, and landowners within and immediately adjacent to these two municipalities to identify regulatory concerns and develop strategies for creating a more efficient regulatory framework. 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 Environment and Natural Resources, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Environmental Review Commission 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. As part of this study, the Commission shall collaborate with local governments and landowners affected by the Commission's Inlet Hazard Areas to identify regulatory concerns and develop strategies for creating a more efficient regulatory framework. The Commission shall report its findings, including any proposed actions the Commission deems appropriate, to the Secretary of Environment and Natural Resources, the Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Environmental Review Commission on or before January 31, 2015.

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

In the General Assembly read three times and ratified this the 3rd day of July, 2012.

s/ Bill Rabon
Presiding Officer of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 3rd day of July, 2012 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 3rd day of August, 2012.

s/ Karen Jenkins
Enrolling Clerk