

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 34
Committee Substitute Favorable 5/5/89

Short Title: Extend Environmental Concern Area.

(Public)

Sponsors:

Referred to:

January 19, 1989

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO
2 DESIGNATE PRIMARY NURSERY AREAS AND OUTSTANDING
3 RESOURCE WATERS AREAS OF ENVIRONMENTAL CONCERN.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 113A-113(b) reads as rewritten:

7 "(b) The Commission may designate as areas of environmental concern any one or
8 more of the following, singly or in combination:

9 (1) Coastal wetlands as defined in ~~G.S. 113-230(a)~~; G.S. 113-229(n)(3) and
10 contiguous areas necessary to protect those wetlands;

11 (2) Estuarine waters, that is, all the water of the Atlantic Ocean within the
12 boundary of North Carolina and all the waters of the bays, sounds,
13 rivers, and tributaries thereto seaward of the dividing line between
14 coastal fishing waters and inland fishing waters, as set forth in the
15 most recent official published agreement adopted by the Wildlife
16 Resources Commission and the Department of Natural Resources and
17 Community Development;

18 (3) Renewable resource areas where uncontrolled or incompatible
19 development which results in the loss or reduction of continued long-
20 range productivity could jeopardize future water, food or fiber
21 requirements of more than local concern, which may include:

22 a. Watersheds or aquifers that are present sources of public water
23 supply, as identified by the Department of Human Resources or

- 1 Environmental Management Commission, or that are classified
2 for water-supply use pursuant to G.S. 143-214.1;
- 3 b. Capacity use areas that have been declared by the
4 Environmental Management Commission pursuant to G.S. 143-
5 215.13(c) and areas wherein said Environmental Management
6 Commission (pursuant to G.S. 143-215.3(d) or G.S. 143-
7 215.3(a)(8)) has determined that a generalized condition of
8 water depletion or water or air pollution exists;
- 9 c. Prime forestry land (sites capable of producing 85 cubic feet per
10 acre-year, or more, of marketable timber), as identified by the
11 Department of Natural Resources and Community
12 Development.
- 13 (4) Fragile or historic areas, and other areas containing environmental or
14 natural resources of more than local significance, where uncontrolled
15 or incompatible development could result in major or irreversible
16 damage to important historic, cultural, scientific or scenic values or
17 natural systems, which may include:
- 18 a. Existing national or State parks or forests, wilderness areas, the
19 State Nature and Historic Preserve, or public recreation areas;
20 existing sites that have been acquired for any of the same, as
21 identified by the Secretary of Natural Resources and
22 Community Development; and proposed sites for any of the
23 same, as identified by the Secretary of Natural Resources and
24 Community Development, provided that the proposed site has
25 been formally designated for acquisition by the governmental
26 agency having jurisdiction;
- 27 b. Present sections of the natural and scenic rivers system;
- 28 c. Stream segments that have been classified for scientific or
29 research uses by the Environmental Management Commission,
30 or that are proposed to be so classified in a proceeding that is
31 pending before said Environmental Management Commission
32 pursuant to G.S. 143-214.1 at the time of the designation of the
33 area of environmental concern;
- 34 d. Existing wildlife refuges, preserves or management areas, and
35 proposed sites for the same, as identified by the Wildlife
36 Resources Commission, provided that the proposed site has
37 been formally designated for acquisition (as hereinafter defined)
38 or for inclusion in a cooperative agreement by the governmental
39 agency having jurisdiction;
- 40 e. Complex natural areas surrounded by modified landscapes that
41 do not drastically alter the landscape, such as virgin forest
42 stands within a commercially managed forest, or bogs in an
43 urban complex;

- 1 f. Areas that sustain remnant species or aberrations in the
2 landscape produced by natural forces, such as rare and
3 endangered botanical or animal species;
- 4 g. Areas containing unique geological formations, as identified by
5 the State Geologist; and
- 6 h. Historic places that are listed, or have been approved for listing
7 by the North Carolina Historical Commission, in the National
8 Register of Historic Places pursuant to the National Historic
9 Preservation Act of 1966; historical, archaeological, and other
10 places and properties owned, managed or assisted by the State
11 of North Carolina pursuant to Chapter 121; and properties or
12 areas that are or may be designated by the Secretary of the
13 Interior as registered natural landmarks or as national historic
14 landmarks;
- 15 (5) Areas such as waterways and lands under or flowed by tidal waters or
16 navigable waters, to which the public may have rights of access or
17 public trust rights, and areas which the State of North Carolina may be
18 authorized to preserve, conserve, or protect under Article XIV, Sec. 5
19 of the North Carolina Constitution;
- 20 (6) Natural-hazard areas where uncontrolled or incompatible development
21 could unreasonably endanger life or property, and other areas
22 especially vulnerable to erosion, flooding, or other adverse effects of
23 sand, wind and water, which may include:
- 24 a. Sand dunes along the Outer Banks;
- 25 b. Ocean and estuarine beaches and ~~shoreline~~; the shoreline of
26 estuarine and public trust waters;
- 27 c. Floodways and floodplains;
- 28 d. Areas where geologic and soil conditions are such that there is a
29 substantial possibility of excessive erosion or seismic activity,
30 as identified by the State Geologist;
- 31 e. Areas with a significant potential for air inversions, as
32 identified by the Environmental Management Commission.
- 33 (7) Areas which are or may be impacted by key facilities.
- 34 (8) Outstanding Resource Waters as designated by the Environmental
35 Management Commission and such contiguous land as the Coastal
36 Resources Commission reasonably deems necessary for the purpose of
37 maintaining the exceptional water quality and outstanding resource
38 values identified in the designation.
- 39 (9) Primary Nursery Areas as designated by the Marine Fisheries
40 Commission and such contiguous land as the Coastal Resources
41 Commission reasonably deems necessary to protect the resource
42 values identified in the designation including, but not limited to, those
43 values contributing to the continued productivity of estuarine and

1 marine fisheries and thereby promoting the public health, safety and
2 welfare."

3 Sec. 2. Article 7 of Chapter 113A of the General Statutes is amended to add a
4 new section to read:

5 **"§ 113A-118.2. Development in Primary Nursery Areas and Outstanding Resource**
6 **Waters areas of environmental concern.**

7 Public notice, opportunity for public comment, and agency review shall be required
8 for all development within the Primary Nursery Areas or Outstanding Resource Waters
9 areas of environmental concern. Provided, however, that the Coastal Resources
10 Commission may by rule exempt or issue general permits for minor maintenance and
11 improvement projects as defined in G.S. 113A-103(5)c. and for single-family residential
12 development pursuant to use standards or conditions adopted by the Coastal Resources
13 Commission."

14 Sec. 3. This act is effective upon ratification.