

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1001

Short Title: Beach Access Program Clarification.

(Public)

Sponsors: Senator Perdue.

Referred to: Agriculture/Environment/Natural Resources

May 4, 1995

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE APPLICABILITY OF THE BEACH ACCESS PROGRAM TO PROJECTS DESIGNED TO PROVIDE ACCESS TO COASTAL WATERS.

The General Assembly of North Carolina enacts:

Section 1. The catch line to Part 6 of Article 7 of Chapter 113A of the General Statutes reads as rewritten:

"Part 6. ~~Coastal and Estuarine Water Beach~~ Public Beach and Coastal Waterfront Access Program."

Sec. 2. G.S. 113A-134.1 reads as rewritten:

**"§ 113A-134.1. Legislative findings.**

(a) ~~It is determined and declared as a matter of legislative findings~~ The General Assembly finds that there are many privately owned lots or tracts of land in close proximity to the Atlantic Ocean and the ~~estuarine coastal~~ coastal waters in North Carolina that have been and will be adversely affected by ~~the coastal and estuarine waters~~ hazards such as erosion, ~~flooding~~ flooding, and storm damage. The sand dunes on many of these lots provide valuable protective functions for public and private property and serve as an integral part of the beach sand supply system. Placement of permanent substantial structures on these lots will lead to increased risks of loss of life and property, increased public costs, and potential eventual encroachment of structures onto the beach.

1 (b) The public has traditionally fully enjoyed the State's ~~ocean and estuarine~~ beaches  
2 and coastal waters and public access to and use of the ~~beaches,~~ beaches and coastal  
3 waters. The beaches provide a recreational resource of great importance to North  
4 Carolina and its citizens and this makes a significant contribution to the economic well-  
5 being of the State. The ~~ocean and estuarine~~ General Assembly finds that the beaches and  
6 coastal waters are resources of statewide significance and have been customarily freely  
7 used and enjoyed by people throughout the State. Public access to ~~ocean and estuarine~~  
8 beaches and coastal waters in North Carolina is, however, becoming severely limited in  
9 some areas. Also, the lack of public parking is increasingly making the use of existing  
10 public access difficult or impractical in some areas. ~~Public purposes would~~ The public  
11 interest would best be served by providing increased access to ~~ocean and estuarine~~ beaches,  
12 beaches and coastal waters and by making available additional public parking facilities, ~~or~~  
13 ~~other related public uses,~~ facilities. There is therefore, a pressing need in North Carolina to  
14 establish a comprehensive program for the identification, acquisition, ~~improvement~~  
15 improvement, and maintenance of public accessways to the ~~ocean and estuarine~~ beaches.  
16 beaches and coastal waters."

17 Sec. 3. G. S. 113A-134.2 reads as rewritten:

18 "**§ 113A-134.2. Creation of program; administration; ~~purpose.~~ purpose; definitions.**

19 (a) There is created the ~~Coastal and Estuarine Water Beach~~ Public Beach and Coastal  
20 Waterfront Access Program, to be administered by the ~~Coastal Resources~~ Commission and  
21 the Department, for the purpose of acquiring, ~~improving~~ improving, and maintaining  
22 property along the Atlantic Ocean and ~~estuarine waters,~~ coastal waterways to which the  
23 public has rights-of-access or public trust rights as provided in this ~~Article.~~ Part.

24 (b) The ~~Coastal Resources Commission and the Department~~ shall use the  
25 ~~definition of "estuarine water" used under this Article to administer this program.~~ As  
26 used in this Part:

27 (1) 'Public trust resources' has the same meaning as in G.S. 113-131(e).

28 (2) 'Public trust rights' has the same meaning as in G.S. 1-45.1."

29 Sec. 4. G. S. 113A-134.3 reads as rewritten:

30 "**§ 113A-134.3. Standards for ~~beach~~ public access program.**

31 The ~~Coastal Resource~~ Commission, with the support of the Department, shall establish  
32 and carry out a program to assure the acquisition, ~~improvement~~ improvement, and  
33 maintenance of a system of public access to ~~ocean and estuarine water beaches,~~ coastal  
34 beaches and public trust waters. This ~~beach~~ public access program shall include standards  
35 to be adopted by the Commission for the acquisition of property and the use and  
36 maintenance of ~~said~~ the property. The standards shall be written to assure that land  
37 acquisition funds shall only be used to purchase interests in property that will be of  
38 benefit to the general public. Priority shall be given to acquisition of lands ~~which,~~ that due  
39 to adverse effects of ~~coastal and estuarine water~~ natural hazards, such as past and potential  
40 erosion, ~~flooding~~ flooding, and storm damage, are unsuitable for the placement of  
41 permanent structures, including lands for which a permit for improvements has been  
42 denied under rules adopted pursuant to State law. The program shall be designed to  
43 provide and maintain reasonable public access and necessary parking, within the

1 limitations of the resources available, to all ~~areas of the North Carolina coast and estuarine~~  
2 coastal beaches and public trust waters where access is compatible with the natural  
3 resources involved and where reasonable access is not ~~already available as of June 30, 1981.~~  
4 available.

5 (b) To the maximum extent possible, this program shall be coordinated with State  
6 and local ~~coastal and estuarine beach and coastal~~ water management and recreational  
7 programs and shall be carried out in cooperation with local governments. Prior to the  
8 purchase of any interests in property, the Secretary or his designee shall make a written  
9 finding of the public purpose to be served by the acquisition. Once property is purchased,  
10 the Department may allow property, without charge, to be controlled and operated by the  
11 county or municipality in which the property is located, subject to an agreement requiring  
12 that the local government use and maintain the property for its intended public purpose.

13 (c) ~~These funds.~~ Subject to any restrictions imposed by law, any funds appropriated  
14 or otherwise made available to the Public Beach and Coastal Waterfront Access Program  
15 may be used to meet matching requirements for federal or other funds. The Department  
16 shall make every effort to obtain funds from sources other than the ~~general fund for these~~  
17 ~~purposes.~~ General Fund to implement this program. Funds may be used to acquire or  
18 develop land for pedestrian access including parking ~~or~~ and to make grants to local  
19 governments to accomplish the purposes of this ~~Article.~~ Part. All acquisitions or  
20 dispositions of property made pursuant to this ~~Article.~~ Part shall be in accordance with the  
21 provisions of Chapter 146 of the General Statutes. All grants to local governments  
22 pursuant to this ~~Article.~~ Part for land acquisitions shall be made on the condition that the  
23 local government agrees to transfer title to any real property acquired with the grant funds  
24 to the State if the local government uses the property for a purpose other than beach or  
25 coastal waters access."

26 Sec. 5. This act is effective upon ratification.