

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 504
SENATE BILL 874

AN ACT TO CONFIRM THE WATER RIGHTS OF THE STATE IN THE ROANOKE RIVER BASIN AND TO MAKE CLARIFYING, CONFORMING, AND TECHNICAL CHANGES TO VARIOUS LAWS RELATING TO ENVIRONMENT, HEALTH, AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section. 1. Part 2 of Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.22B. Roanoke River Basin water rights.

The State reserves and allocates to itself, as protector of the public interest, all rights in the water located in those portions of Kerr Lake and Lake Gaston that are in the State."

Sec. 2. G.S. 7A-29(a) reads as rewritten:

"(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Human Resources under G.S. 131E-188(b), the Commissioner of Banks under Articles 17, 18, 18A, and 21 of Chapter 53 of the General Statutes, the Administrator of Savings and Loans under Article 3A of Chapter 54B of the General Statutes, the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance under G.S. 58-2-80, or the Secretary of Environment, Health, and Natural Resources under G.S. ~~104E-6.2~~, 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals."

Sec. 3. G.S. 74-56(a) reads as rewritten:

"(a) The Department may direct investigations as it may reasonably deem necessary to carry out its duties as prescribed by this Article, and for this purpose ~~to~~ may enter at reasonable times upon any mining operation for the purpose of determining compliance with this Article and any rules adopted under this Article and for determining compliance with the terms and conditions of a mining permit, but for no other purpose. No person shall refuse entry or access to any authorized representative of the Department who enters the mining operation for purposes of inspection or other official duties and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with the representative while the representative is carrying out official duties. Upon arriving at the site, the representative of the Department shall make every reasonable effort to notify the operator or the operator's agent that the representative of the Department intends to inspect the site. Upon receipt of the

operator's annual report or report of completion of reclamation and at any other reasonable time the Department may elect, the Department shall cause the permit area to be inspected to determine whether the operator has complied with the reclamation plan, the requirements of this Article, any rules adopted under this Article, and the terms and conditions of the permit."

Sec. 4. G.S. 104E-5(14b) reads as rewritten:

"(14b) 'Secretary' means the Secretary of ~~the Department of~~ Environment, Health, and Natural Resources."

Sec. 5. G.S. 104F-4 reads as rewritten:

"§ 104F-4. Advisory Committee.

(a) The Advisory Committee to the North Carolina Members of the Low-Level Radioactive Waste Management Compact Commission is hereby created. It shall consist of seven voting members, two to be appointed by the Governor, who shall be members of the Radiation Protection Commission, two by the President of the Senate, and two by the Speaker of the House of Representatives. ~~The Chief of the Radiation Protection Section Director of the Division of Facility Services Radiation Protection~~ of the Department of Environment, Health, and Natural Resources shall be an ex officio member. The members shall serve for two-year terms. A vacancy in membership shall be filled by the appointing authority who made the initial appointment. A member whose term expires may be reappointed.

(b) It shall be the duty of the Committee to consult with and advise the State's representatives to the Compact Commission concerning technical and policy matters.

(c) The Governor shall appoint the Committee chairman and he may be reappointed. The Committee shall meet at such times and places as the chairman shall designate. The facilities of the State Legislative Building and the Legislative Office Building shall be available to the Committee, subject to approval of the Legislative Services Commission. Legislative members of the Committee shall be reimbursed for subsistence and travel expenses at the rates set out in G.S. 120-3.1. Members of the Committee who are not officers or employees of the State shall receive compensation and reimbursement for travel and subsistence expenses at the rates specified in G.S. 138-5. Members of the Committee who are officers or employees of the State shall receive reimbursement for travel and subsistence expenses at the rate set out in G.S. 138-6.

(d) Subject to the approval of the Legislative Services Commission, the staff resources of the Legislative Services Commission shall be available to the Committee without cost except for travel, subsistence, supplies, and materials. The Committee may solicit, employ, or contract for technical assistance and clerical assistance and may purchase or contract for the materials and services it needs."

Sec. 6. G.S. 113-315.5 reads as rewritten:

"§ 113-315.5. Alternative method for collection of assessment.

As an alternate method for the collection of assessments provided for in G.S. ~~113-310~~ ~~[G.S. 113-315.4]~~, 113-315.4, upon the request or petition of the agency and action by the Marine Fisheries Commission as prescribed in G.S. 113-313, the Secretary shall notify, by letter, all persons or firms licensed by the Marine Fisheries Commission to

engage in business and commerce as may be directly affected by the paying of the assessment, that on and after the date specified in the letter the assessment shall become due and payable, and shall be remitted by said persons or firms to the Secretary who shall thereupon pay the amount of the assessments to the agency. The books and records of all such persons and firms shall at all times during regular business hours be open for inspection by the Secretary or his duly authorized agents."

Sec. 7. G.S. 113A-105(b), as amended by Section 4 of Chapter 123 of the 1995 Session Laws, reads as rewritten:

"(b) The Coastal Resources Advisory Council shall consist of not more than ~~47~~45 members appointed or designated as follows:

- (1) Two individuals designated by the Secretary from among the employees of ~~his~~the Department;
- (1a) The Secretary of ~~the Department of~~ Commerce or ~~his designee~~; person designated by the Secretary of Commerce;
- (2) The Secretary of ~~the Department of~~ Administration or ~~his designee~~; person designated by the Secretary of Administration;
- (3) The Secretary of ~~the Department of~~ Transportation and Highway Safety or ~~his designee~~; person designated by the Secretary of Transportation; and one additional member selected by ~~him~~the Secretary of Transportation from ~~his Department~~; the Department of Transportation;
- (4) The State Health Director or the ~~designee thereof~~; person designated by the State Health Director;
- (5) The Commissioner of Agriculture or ~~his designee~~; person designated by the Commissioner of Agriculture;
- (6) The Secretary of ~~the Department of~~ Cultural Resources or ~~his designee~~; person designated by the Secretary of Cultural Resources;
- (7) One member from each of the four multi-county planning districts of the coastal area to be appointed by the lead regional agency of each district;
- (8) One representative from each of the counties in the coastal area to be designated by the respective boards of county commissioners;
- (9) No more than eight additional members representative of cities in the coastal area and to be designated by the Commission;
- (10) Three members selected by the Commission who are marine scientists or technologists;
- (11) One member who is a local health director selected by the Commission upon the recommendation of the Secretary."

Sec. 8. G.S. 130A-22(b2) reads as rewritten:

"(b2) The penalty for violations of the asbestos NESHAP for ~~renovations and demolitions~~; demolition and renovation, as defined in G.S. 130A-444, shall not exceed ten thousand dollars (\$10,000) per day per violation. Until the Department has provided the person with written notification of the violation of the asbestos NESHAP for ~~renovations and demolitions~~ demolition and renovation that describes the violation,

recommends a general course of action, and establishes a time frame in which to correct the violations, a continuing violation shall be treated as one violation. Each day thereafter of a continuing violation shall be treated as a separate violation. A violation of the asbestos NESHAP for ~~renovations and demolitions~~ demolition and renovation is not considered to continue during the period a person who has received the notice of violation is following the general course of action and complying with the time frame set forth in the notice of violation."

Sec. 9. G.S. 130A-309.10(h) reads as rewritten:

"(h) The accidental or occasional disposal of small amounts of prohibited solid waste by landfill or incineration shall not be construed as a violation of ~~subsections~~ subsection (f) or (f1) of this section."

Sec. 10. G.S. 143-215.4(b) reads as rewritten:

"(b) Procedures for Public Input. –

- (1) ~~Procedures for Public Input.~~—The Commission may, on its own motion or when required by federal law, request public comments on or hold public hearings on matters within the scope of its authority under this Article or Articles 21A or 21B of this Chapter. To request public comments on a matter, the Commission shall notify appropriate agencies of the opportunity to submit written comments to the Commission on the matter and shall publish a notice in a newspaper having general circulation in the affected area, stating the matter under consideration by the Commission and informing the public of its opportunity to submit written comments to the Commission on the matter. A public comment period shall extend for at least 30 days after the notice is published.
- (2) To hold a public hearing on a matter, the Commission shall notify, by personal service or certified mail, persons directly affected by the matter under consideration and shall publish a notice in a newspaper having general circulation in the affected area, stating the matter under consideration by the Commission and the time, date, and place of a public hearing to be held on the matter. A public hearing shall be held no sooner than 20 days after the notice is published. The proceedings at a public hearing held under this subsection shall be recorded. Upon payment of a fee established by the Commission, any person may obtain a copy of the record of the public hearing. After a public hearing, the Commission shall accept written comments for the time period prescribed by the Commission.
- (3) This subsection does not apply to rule-making proceedings, contested case hearings, or the issuance of permits required under Title V. The Commission shall establish procedures for public hearings, public notice, and public comment respecting permits required by Title V as provided by G.S. 143-215.111(4)."

Sec. 11. G.S. 143-215.96 reads as rewritten:

"§ 143-215.96. Oil terminal facility registration.

~~(a) Prior to November 10, 1973, the~~ The owner or operator of every oil terminal facility in the State shall secure a registration certificate from the ~~Secretary of Natural and Economic Resources. Such a certificate shall be issued only where the applicant shall have furnished the following information concerning the oil terminal facility:~~ Secretary. The Secretary shall not issue a registration certificate until the owner or operator has furnished the following information:

- (1) Complete name of the owner and operator of the oil terminal facility together with addresses and telephone numbers;
- (2) Number of employees of the oil terminal facility and the principal officers;
- (3) Maps or sketches, based on criteria developed by the ~~Secretary of Natural and Economic Resources to show~~ Secretary, showing property lines of the oil terminal facility and location of nearby watercourses or bodies of water as specified by the Secretary; and
- (4) Summary of present and proposed procedures, if any, for prevention of oil spills.

~~(b) The owner or operator of any an oil terminal facility which begins operation subsequent to the initial registration date specified in this section shall secure a registration certificate no later than 30 days after beginning operations. the oil terminal facility begins operation."~~

Sec. 12. G.S. 150B-21.5(a) reads as rewritten:

"(a) Amendment. – An agency is not required to publish a notice of rule making in the North Carolina Register or hold a public hearing when it proposes to amend a rule, without changing the substance of the rule, to do one of the following:

- (1) Reletter or renumber the rule or subparts of the rule.
- (2) Substitute one name for another when an organization or position is renamed.
- (3) Correct a citation in the rule to another rule or law when the citation has become inaccurate since the rule was adopted because of the repeal or renumbering of the cited rule or law.
- (4) Change information that is readily available to the public, such as an address or a telephone number.
- (5) Correct a typographical error ~~made in entering the rule in the~~ North Carolina Administrative Code.
- (6) Change a rule in response to a request or an objection by the Commission."

Sec. 13. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 28th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives