NORTH CAROLINA GENERAL ASSEMBLY
1975 SESSION

CHAPTER 639
SENATE BILL 216

AN ACT TO ALLOW INTERMITTENT CLOSING OF CERTAIN ROADS FOR FLOOD WATER RETENTION PURPOSES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 136 of the General Statutes is amended by adding a new section to be numbered G.S. 136-65 and to read as follows:

"**§ 136-65. Applications for intermittent closing of roads within watershed improvement project by Board of Transportation; notice; regulation by Board; delegation of authority; markers. —** (a) Upon proper application by the Board of Commissioners of a Drainage District established under the provisions of Chapter 156 of the General Statutes of North Carolina, by the Board of Trustees of a Watershed Improvement District established under the provisions of Article 2 of Chapter 139 of the General Statutes, by the Board of County Commissioners of any county operating a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes, by the Board of Commissioners of any Watershed Improvement Commission appointed by a Board of County Commissioners or by the Board of Supervisors of any Soil and Water Conservation District designated by a Board of County Commissioners to exercise authority in carrying out a county watershed improvement program, the Board of Transportation for roads coming under its jurisdictional control, is hereby authorized to permit the intermittent closing of any secondary road within the boundaries of any watershed improvement project operated by the applicants, whenever in the judgment of the Board of Transportation it is necessary to do so, and when the secondary road will be intermittently subject to inundation by flood waters retained by an approved watershed improvement project.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the Board of Transportation by the public body having jurisdiction over the watershed improvement project. The application shall specify the secondary road involved, the anticipated frequency and duration of intermittent flooding of the secondary road involved, and shall request that a permit be granted to the applicant public body to allow the intermittent closing of the road.

(c) Upon receipt of such an application the Board of Transportation shall give public notice of the proposed action by publication once each week for two consecutive weeks in a newspaper of general circulation in the county or counties, within which the proposed intermittent closing of road or roads would occur; and such notices shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition, the Board of Transportation shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notices to the appropriate offices of the public utility or common carrier having jurisdiction over the affected facilities of the public utility or common carrier. Not sooner than 14 days after publication and mailing of notices, the Board of Transportation or the municipality may issue its permit with respect to such road.

(d) The Board of Transportation shall have the discretion to deny any application submitted pursuant to this section, or it may grant a permit on any condition it deems

warranted. The Board, however, shall consider the use of alternate routes available during flooding of the roads, and any inconvenience to the public or temporary loss of access to business, homes and property. The Board shall have the authority to promulgate regulations for the issuance of permits under this section and it may delegate the authority for the consideration, issuance or denial of such permits to the State Highway Administrator. Any applicant granted a permit pursuant to this section shall cause suitable markers to be installed on the secondary road to advise the general public of the intermittent closing of the road or roads involved. Such markers shall be located and approved by the State Highway Administrator."

Sec. 2. Chapter 160A is hereby amended by adding a new section to be numbered G.S. 160A-299.1 and to read as follows:

"**§ 160A-299.1. Applications for intermittent closing of roads within watershed improvement project by municipality; notice; costs; markers. —** (a) Upon proper application by the Board of Commissioners of a Drainage District established under the provisions of Chapter 156 of the General Statutes by the Board of Trustees of a Watershed Improvement District established under the provisions of Article 2 of Chapter 139 of the General Statutes, by the Board of County Commissioners of any county operating a county watershed improvement program under the provisions of Article 3 of Chapter 139 of the General Statutes, by the Board of Commissioners of any Watershed Improvement Commission appointed by a Board of County Commissioners, or by the Board of Supervisors of any Soil and Water Conservation District designated by a Board of County Commissioners to exercise authority in carrying out a county watershed improvement program, any municipality for roads or streets coming under its jurisdictional control is hereby authorized to permit the intermittent closing of any highway or public road within the boundaries of any watershed improvement project operated by the applicants, whenever in the judgment of the municipality it is necessary to do so, and when the highway or public road will be intermittently subject to inundation by flood waters retained by an approved watershed improvement project.

(b) Before any permit may be issued for the temporary inundation and closing of such a road, an application for such permit shall be made to the appropriate municipality by the public body having jurisdiction over the watershed improvement project. The application shall specify the highway, road, or street involved, and shall request that a permit be granted to the applicant public body to allow the intermittent closing of the road.

(c) Upon receipt of such an application the municipality shall give public notice of the proposed action by publication in a newspaper of general circulation in the county or counties, within which the proposed intermittent closing of road or roads would occur; and such notices shall contain a description of the places of beginning and the places of ending of such intermittent closing. In addition, the municipality shall give notice to all public utilities or common carriers having facilities located within the rights-of-way of any roads being closed by mailing copies of such notices to the appropriate offices of the public utility or common carrier having jurisdiction over the affected facilities of the public utility or common carrier. Not sooner than 14 days after publication and mailing of notices, the municipality may issue its permit with respect to such road.

(d) All cost in connection with the publication and mailing of notices shall be paid by the applicant. In the event any municipality issues a permit allowing the intermittent closing of a road, the permit shall contain a provision that the applicant public body having jurisdiction over the watershed improvement project causing the potential flooding shall cause suitable markers to be installed on the road to advise the general public of the intermittent closing of the road."

Sec. 3. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1975.