

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1075

Short Title: Beach Access Program Clarification.

(Public)

Sponsors: Senator Jordan.

Referred to: Agriculture, Marine Resources, and Wildlife.

May 6, 1993

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 Waters 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.

(b) The public has traditionally fully enjoyed the State's ~~ocean and estuarine~~ beaches and coastal waters and public access to and use of the ~~beaches~~ beaches and coastal waters. The beaches provide a recreational resource of great importance to North Carolina and its citizens and this makes a significant contribution to the economic

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

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

14 "**§ 113A-134.2. Creation of program; administration; ~~purpose.~~ purpose;**  
15 **definitions.**

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

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

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

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

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

28 "**§ 113A-134.3. Standards for ~~beach~~ public access program.**

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

1 resources involved and where reasonable access is not ~~already available as of June 30,~~  
2 ~~1981, available.~~

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

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

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