

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 646*
Agriculture/Environment and Natural Resources Committee Substitute Adopted
7/23/07

Short Title: Enact WASC Recommendations/Funds. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH WORKING WATERFRONTS AS A SPECIAL CLASS OF PROPERTY SUBJECT TO PRESENT-USE VALUE; TO ESTABLISH THE ADVISORY COMMITTEE FOR THE COORDINATION OF WATERFRONT ACCESS; TO DIRECT THE DEPARTMENT OF TRANSPORTATION TO MAKE EXPANDED PUBLIC ACCESS TO COASTAL WATERS A PRIORITY IN ITS ROAD PROJECT PLANNING AND CONSTRUCTION PROGRAMS; TO INCREASE FEES FOR VESSEL TITLING; TO PROVIDE THAT FEES ASSOCIATED WITH AN EMERGENCY COASTAL AREA MANAGEMENT ACT PERMIT SHALL BE WAIVED; AND TO DIRECT THE DIVISION OF EMERGENCY MANAGEMENT TO STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD ZONES, AS RECOMMENDED BY THE WATERFRONT ACCESS STUDY COMMITTEE.

The General Assembly of North Carolina enacts:

PART I. PRESENT-USE VALUE FOR WORKING WATERFRONTS.

SECTION 1.1. G.S. 105-277.2 reads as rewritten:

"§ 105-277.2. ~~Agricultural, horticultural, and forestland~~Agricultural land, horticultural land, forestland, and working waterfront land –
Definitions.

The following definitions apply in G.S. 105-277.3 through G.S. 105-277.7:

...

(1b) Commercial fishing. – Harvesting or processing wild marine organisms with the intent of disposing of them for profit or trace in commercial channels.

...

(5) Present-use value. – The value of land in its current use as agricultural land, horticultural land, ~~or forestland,~~ or working waterfront land, based on the following requirements:

a. For agricultural land or horticultural land, solely on its ability to produce income and income, assuming an average level of management. The capitalization rate for agricultural land and horticultural land is to be between six percent (6%) and seven percent (7%), as determined by the Use-Value Advisory Board under G.S. 105-277.7.

b. For forestland, its ability to produce income, assuming an average level of management. A rate of nine percent (9%) shall be used to capitalize the expected net income of forestland. The capitalization rate for agricultural land and horticultural land is to be determined by the Use Value Advisory Board as provided in G.S. 105-277.7.

c. For working waterfront land, the true value of the working waterfront land multiplied by a fraction, the numerator of which is the total present-use value for all counties for horticultural land, agricultural land, and forestland and the denominator of which is the total true value for all counties for horticultural land, agricultural land, and forestland.

...
 (7) Unit. – One or more tracts of agricultural land, horticultural land, ~~or forestland,~~ forestland, or working waterfront land. Multiple tracts must be under the same ownership and be of the same type of classification. If the multiple tracts are located within different counties, they must be within 50 miles of a tract qualifying under G.S. 105-277.3(a).

(8) Working waterfront land. – Land that abuts water to the head of tide or is within the intertidal zone and that is primarily used to provide access to or to support commercial fishing activities."

SECTION 1.2. The catch line of G.S. 105-277.3 reads as rewritten:

"§ 105-277.3. ~~Agricultural, horticultural, and forestland~~Agricultural land, horticultural land, forestland, and working waterfront land – **Classifications."**

SECTION 1.3. G.S. 105-277.3(a) reads as rewritten:

"(a) Classes Defined. – The following classes of property are designated special classes of property under authority of Section 2(2) of Article V of the North Carolina Constitution and must be appraised, assessed, and taxed as provided in G.S. 105-277.2 through G.S. 105-277.7.

(1) Agricultural land. – Individually owned agricultural land consisting of one or more tracts, one of which consists of at least 10 acres that are in actual production and that, for the three years preceding January 1 of the year for which the benefit of this section is claimed, have produced an average gross income of at least one thousand dollars (\$1,000).

1 Gross income includes income from the sale of the agricultural
2 products produced from the land, any payments received under a
3 governmental soil conservation or land retirement program, and the
4 amount paid to the taxpayer during the taxable year pursuant to P.L.
5 108-357, Title VI, Fair and Equitable Tobacco Reform Act of 2004.
6 Land in actual production includes land under improvements used in
7 the commercial production or growing of crops, plants, or animals.

8 (2) Horticultural land. – Individually owned horticultural land consisting
9 of one or more tracts, one of which consists of at least five acres that
10 are in actual production and that, for the three years preceding January
11 1 of the year for which the benefit of this section is claimed, have met
12 the applicable minimum gross income requirement. Land in actual
13 production includes land under improvements used in the commercial
14 production or growing of fruits or vegetables or nursery or floral
15 products. Land that has been used to produce evergreens intended for
16 use as Christmas trees must have met the minimum gross income
17 requirements established by the Department of Revenue for the land.
18 All other horticultural land must have produced an average gross
19 income of at least one thousand dollars (\$1,000). Gross income
20 includes income from the sale of the horticultural products produced
21 from the land and any payments received under a governmental soil
22 conservation or land retirement program.

23 (3) Forestland. – Individually owned forestland consisting of one or more
24 tracts, one of which consists of at least 20 acres that are in actual
25 production and are not included in a farm unit.

26 (4) Working waterfront land. – Individually owned working waterfront
27 land that is actually used as a working waterfront and that has
28 produced an average gross income of at least one thousand dollars
29 (\$1,000) for the three years preceding January 1 of the year for which
30 the benefit is claimed."

31 **SECTION 1.4.** The catch line of G.S. 105-277.4 reads as rewritten:

32 "§ 105-277.4. ~~Agricultural, horticultural and forestland~~Agricultural land,
33 horticultural land, forestland, and working waterfront land –
34 Application; appraisal at use value; appeal; deferred taxes."

35 **SECTION 1.5.** The catch line of G.S. 105-277.5 reads as rewritten:

36 "§ 105-277.5. ~~Agricultural, horticultural and forestland~~Agricultural land,
37 horticultural land, forestland, and working waterfront land – Notice of
38 change in use."

39 **SECTION 1.6.** The catch line of G.S. 105-277.6 reads as rewritten:

40 "§ 105-277.6. ~~Agricultural, horticultural and forestland~~Agricultural land,
41 horticultural land, forestland, and working waterfront land – Appraisal;
42 computation of deferred tax."

43 **SECTION 1.7.** G.S. 105-277.7 reads as rewritten:

44 "§ 105-277.7. **Use-Value Advisory Board.**

1 (a) Creation and Membership. – The Use-Value Advisory Board is established
2 under the supervision of the Agricultural Extension Service of North Carolina State
3 University. The Director of the Agricultural Extension Service of North Carolina State
4 University shall serve as the chair of the Board. The Board shall consist of the following
5 additional members, to serve ex officio:

- 6 (1) A representative of the Department of Agriculture and Consumer
7 Services, designated by the Commissioner of Agriculture.
- 8 (2) A representative of the Division of Forest Resources of the
9 Department of Environment and Natural Resources, designated by the
10 Director of that Division.
- 11 (3) A representative of the Agricultural Extension Service at North
12 Carolina Agricultural and Technical State University, designated by
13 the Director of the Extension Service.
- 14 (4) A representative of the North Carolina Farm Bureau Federation, Inc.,
15 designated by the President of the Bureau.
- 16 (5) A representative of the North Carolina Association of Assessing
17 Officers, designated by the President of the Association.
- 18 (6) The Director of the Property Tax Division of the North Carolina
19 Department of Revenue or the Director's designee.
- 20 (7) A representative of the North Carolina Association of County
21 Commissioners, designated by the President of the Association.
- 22 (8) A representative of the North Carolina Forestry Association,
23 designated by the President of the Association.
- 24 (9) A representative of the Division of Marine Fisheries of the Department
25 of Environment and Natural Resources, designated by the director of
26 that Division.

27 (b) Staff. – The Agricultural Extension Service at North Carolina State
28 University must provide clerical assistance to the Board.

29 (c) Duties. – The Board must annually submit to the Department of Revenue a
30 recommended use-value manual. In developing the manual, the Board may consult with
31 federal and State agencies as needed. The manual must contain all of the following:

- 32 (1) The estimated cash rental rates for agricultural lands and horticultural
33 lands for the various classes of soils found in the State. The rental rates
34 must recognize the productivity levels by class of soil or geographic
35 area, and the crop as either agricultural or horticultural. The rental
36 rates must be based on the rental value of the land to be used for
37 agricultural or horticultural purposes when those uses are presumed to
38 be the highest and best use of the land. The recommended rental rates
39 may be established from individual county studies or from contracts
40 with federal or State agencies as needed.
- 41 (2) The recommended net income ranges for forestland furnished to the
42 Board by the Forestry Section of the North Carolina Cooperative
43 Extension Service. These net income ranges may be based on up to six
44 classes of land within each Major Land Resource Area designated by

1 the United States Soil Conservation Service. In developing these
2 ranges, the Forestry Section must consider the soil productivity and
3 indicator tree species or stand type, the average stand establishment
4 and annual management costs, the average rotation length and timber
5 yield, and the average timber stumpage prices.

6 (3) The capitalization rates adopted by the Board prior to February 1 for
7 use in capitalizing incomes into values. The capitalization rate for
8 forestland shall be nine percent (9%). The capitalization rate for
9 agricultural land and horticultural land must be no less than six percent
10 (6%) and no more than seven percent (7%). The incomes must be in
11 the form of cash rents for agricultural lands and horticultural lands and
12 net incomes for forestlands.

13 (4) The value per acre adopted by the Board for the best agricultural land.
14 The value may not exceed one thousand two hundred dollars (\$1,200).

15 (5) Recommendations concerning any changes to the capitalization rate
16 for agricultural land and horticultural land and to the maximum value
17 per acre for the best agricultural land and horticultural land based on a
18 calculation to be determined by the Board. The Board shall annually
19 report these recommendations to the Revenue Laws Study Committee
20 and to the President Pro Tempore of the Senate and the Speaker of the
21 House of Representatives.

22 (6) Recommendations concerning requirements for horticultural land used
23 to produce evergreens intended for use as Christmas trees when
24 requested to do so by the Department."

25 **SECTION 1.8.** G.S. 160A-37(f1) reads as rewritten:

26 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
27 annexation ordinance includes agricultural land, horticultural land, ~~or~~
28 ~~forestland~~forestland, or working waterfront land that meets either of the conditions
29 listed below on the effective date of annexation, then the annexation becomes effective
30 as to that property pursuant to subsection (f2) of this section:

31 (1) The land is being taxed at present-use value pursuant to
32 G.S. 105-277.4.

33 (2) The land meets both of the following conditions:

34 a. On the date of the resolution of intent for annexation it was
35 being used for actual production and is eligible for present-use
36 value taxation under G.S. 105-277.4, but the land had not been
37 in use for actual production for the required time under
38 G.S. 105-277.3.

39 b. The assessor for the county where the land subject to
40 annexation is located has certified to the city that the land meets
41 the requirements of this subdivision."

42 **SECTION 1.9.** G.S. 160A-49(f1) reads as rewritten:

43 "(f1) Property Subject to Present-Use Value Appraisal. – If an area described in an
44 annexation ordinance includes agricultural land, horticultural land, ~~or~~

1 ~~forestland~~forestland, or working waterfront land that meets either of the conditions
 2 listed below on the effective date of annexation is:annexation, then the annexation
 3 becomes effective as to that property pursuant to subsection (f2) of this section:

4 (1) ~~Land that~~The land is being taxed at present-use value pursuant to
 5 G.S. ~~105-277.4; or~~105-277.4.

6 (2) ~~Land that:~~The land meets both of the following conditions:

7 a. ~~Was on~~On the date of the resolution of intent for annexation it
 8 was being used for actual production and is eligible for
 9 present-use value taxation under G.S. 105-277.4, but the land
 10 ~~has had~~not been in use for actual production for the required
 11 time under G.S. ~~105-277.3; and~~105-277.3.

12 b. The assessor for the county where the land subject to
 13 annexation is located has certified to the city that the land meets
 14 the requirements of this ~~subdivisions~~subdivision.

15 ~~the annexation becomes effective as to that property pursuant to subsection (f2) of this~~
 16 ~~section."~~

18 PART II. ADVISORY COMMITTEE FOR THE COORDINATION OF 19 WATERFRONT ACCESS.

20
 21 **SECTION 2.1.** There is established the Advisory Committee for the
 22 Coordination of Waterfront Access within the Department of Environment and Natural
 23 Resources. The Advisory Committee shall be composed of the following members:

24 (1) The Secretary of Environment and Natural Resources or the
 25 Secretary's designee, Chair.

26 (2) The Director of the Division of Coastal Management of the
 27 Department of Environment and Natural Resources or the Director's
 28 designee.

29 (3) The Director of the Division of Parks and Recreation of the
 30 Department of Environment and Natural Resources or the Director's
 31 designee.

32 (4) The Director of the Division of Marine Fisheries of the Department of
 33 Environment and Natural Resources or the Director's designee.

34 (5) The Director of the Division of Aquariums of the Department of
 35 Environment and Natural Resources or the Director's designee.

36 (6) The Executive Director of the Wildlife Resources Commission or the
 37 Executive Director's designee.

38 (7) A representative of the State Property Office appointed by the
 39 Secretary of Administration.

40 (8) The Executive Director of North Carolina Sea Grant.

41 (9) One local government representative appointed by the North Carolina
 42 League of Municipalities.

43 (10) One local government representative appointed by the North Carolina
 44 Association of County Commissioners.

1 **SECTION 2.2.** The Advisory Committee for the Coordination of Waterfront
2 Access shall:

- 3 (1) Develop a coordinated plan for providing greater waterfront access in
4 the State. This plan shall specifically address geographic diversity of
5 waterfront access, diversity of types of waterfront access, and funding
6 for waterfront access. The entities represented on the Advisory
7 Committee shall adhere to the plan to the maximum extent practicable.
8 (2) Develop recommendations for increasing and improving waterfront
9 access in the State.

10 **SECTION 2.3.** The Advisory Committee shall report its progress in
11 implementing this Part, including any recommendations developed pursuant to this Part,
12 to the Joint Legislative Commission on Seafood and Aquaculture no later than October
13 1 of each year. The first report required by this section shall be submitted no later than
14 October 1, 2008.

15
16 **PART III. DIRECT THE DEPARTMENT OF TRANSPORTATION TO**
17 **EXPAND PUBLIC ACCESS TO COASTAL WATERS.**

18
19 **SECTION 3.1.** G.S. 136-18 is amended by adding a new subdivision to
20 read:

21 "(40) To expand public access to coastal waters in its road project planning
22 and construction programs. The Department shall work with the
23 Wildlife Resources Commission, other State agencies, and other
24 entities to ensure that public access to coastal waters is expanded along
25 the roadways, bridges, and other transportation infrastructure owned or
26 maintained by the Department. The Department shall report on its
27 progress in expanding public access to coastal waters to the Joint
28 Legislative Commission on Seafood and Aquaculture no later than
29 March 1 of each year."

30 **SECTION 3.2.** The first report required by G.S. 136-18, as enacted by this
31 section, is due no later than March 1, 2008.

32
33 **PART IV. INCREASE BOATING AND WATERWAY ACCESS FUNDING.**

34
35 **SECTION 4.1.** G.S. 75A-3(c) reads as rewritten:

36 "(c) The Boating and Waterways Account is established within the Wildlife
37 Resources Fund created under G.S. 143-250. ~~All moneys collected pursuant to the~~
38 ~~numbering and titling provisions of this Chapter shall be credited to this Account. Motor~~
39 ~~fuel excise tax revenue is credited to the Account under G.S. 105-449.126. Except as~~
40 otherwise specified by law, any moneys appropriated or otherwise made available for
41 the purposes of administering and enforcing this Chapter shall remain available until
42 expended, including the income received and accruing from the investment of revenues
43 in this Account, all moneys collected pursuant to the numbering and titling provisions of
44 this Chapter; and motor fuel excise tax revenue credited to the Account under

1 G.S. 105-449.126. The Commission shall use revenue in the Account, subject to the
2 Executive Budget Act and the Personnel Act, for the administration and enforcement of
3 this Chapter; for activities relating to boating and water safety including education and
4 waterway marking and improvement; and for boating access area acquisition,
5 development, and maintenance. The Commission shall use at least three dollars (\$3.00)
6 of each one-year certificate of number fee and at least nine dollars (\$9.00) of each
7 three-year certificate of number fee collected under the numbering provisions of
8 G.S. 75A-5 for boating access area acquisition, development, and maintenance."

9 **SECTION 4.2.** G.S. 75A-5(a) reads as rewritten:

10 "(a) Application for Certificate of Number and Fees. – The owner of each vessel
11 requiring numbering by this State shall file an application for a certificate of number
12 with the Commission. The Commission shall furnish application forms and shall
13 prescribe the information contained in the application form. The application shall be
14 signed by the owner of the vessel or the owner's agent and shall be accompanied by a
15 fee of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) for a one-year period or by a fee of
16 ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for a three-year period; provided,
17 however, there shall be no fee charged for vessels owned and operated by nonprofit
18 rescue squads if they are operated exclusively for rescue purposes, including rescue
19 training. The owner shall have the option of selecting a one-year numbering period or a
20 three-year numbering period. Upon receipt of the application in approved form, the
21 Commission shall enter the application in its records and issue the owner a certificate of
22 number stating the identification number awarded to the vessel and the name and
23 address of the owner, and a validation decal indicating the expiration date of the
24 certificate of number. The owner shall paint on or attach to each side of the bow of the
25 vessel the identification number in such manner as may be prescribed by rules of the
26 Commission in order that it may be clearly visible. The identification number shall be
27 maintained in legible condition. The validation decal shall be displayed on the starboard
28 bow of the vessel immediately following the number. The certificate of number shall be
29 pocket size and shall be available for inspection on the vessel for which the certificate is
30 issued at all times the vessel is in operation. Any person charged with failing to so carry
31 a certificate of number shall not be convicted if the person produces in court a
32 certificate of number previously issued to the owner that was valid at the time of the
33 alleged violation."

34 **SECTION 4.3.** G.S. 75A-5(c) reads as rewritten:

35 "(c) Change of Ownership. – Should the ownership of a vessel change, a new
36 application form with a fee of ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) for a one-year
37 period or by a fee of ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for a three-year
38 period shall be filed with the Commission and a new certificate bearing the same
39 identification number shall be awarded to the new owner in the same manner as an
40 original certificate of number. Possession of the certificate shall in cases involving
41 prosecution for violation of any provision of this Chapter be prima facie evidence that
42 the person whose name appears on the certificate is the owner of the vessel referred to
43 on the certificate."

44 **SECTION 4.4.** G.S. 75A-5(h) reads as rewritten:

1 (h) Renewal of Certificates. – An owner of a vessel awarded a certificate of
2 number pursuant to this Chapter shall renew the certificate on or before the first day of
3 the month after which the certificate expires; otherwise, the certificate shall lapse and be
4 void until such time as it may thereafter be renewed. Application for renewal shall be
5 submitted on a form approved by the Commission and shall be accompanied by a fee of
6 ~~ten dollars (\$10.00)~~ fifteen dollars (\$15.00) for a one-year period or by a fee of
7 ~~twenty five dollars (\$25.00)~~ forty dollars (\$40.00) for a three-year period; provided,
8 there shall be no fee required for a period of one year for renewal of certificates of
9 number that have been previously issued to commercial fishing vessels as defined in
10 G.S. 75A-5.1, upon compliance with all of the requirements of that section."
11

12 **PART V. WAIVER OF FEES FROM CAMA EMERGENCY PERMITS.**

14 **SECTION 5.** G.S. 113A-118(f) reads as rewritten:

15 (f) The Secretary may issue special emergency permits under this Article. These
16 permits may only be issued in those extraordinary situations in which life or structural
17 property is in imminent danger as a result of storms, sudden failure of man-made
18 structures, or similar occurrence. These permits may carry any conditions necessary to
19 protect the public interest, consistent with the emergency situation and the impact of the
20 proposed development. If an application for an emergency permit includes work beyond
21 that necessary to reduce imminent dangers to life or property, the emergency permit
22 shall be limited to that development reasonably necessary to reduce the imminent
23 danger; all further development shall be considered under ordinary permit procedures.
24 This emergency permit authority of the Secretary shall extend to all development in
25 areas of environmental concern, whether major or minor development, and the
26 mandatory notice provisions of G.S. 113A-119(b) shall not apply to these emergency
27 permits. To the extent feasible, these emergency permits shall be coordinated with any
28 emergency permits required under G.S. 113-229(e1). The fees associated with any
29 permit issued pursuant to this subsection or rules adopted pursuant to this subsection
30 shall be waived."
31

32 **PART VI. STUDY CONSTRUCTION AND REPAIR IN REGULATED FLOOD** 33 **ZONES.**

35 **SECTION 6.** The Division of Emergency Management of the Department of
36 Crime Control and Public Safety shall study ways to facilitate the construction and
37 repair of water dependent structures such as fish processing and packing facilities and
38 boat repair and building facilities located in regulated flood zones. The Division shall
39 report the results of its study, including any recommendations, to the Joint Legislative
40 Commission on Seafood and Aquaculture by March 1, 2008.
41

42 **PART VII. APPROPRIATION; EFFECTIVE DATE.**

1 **SECTION 7.1.** There is appropriated from the General Fund to the
2 Agricultural Extension Service of North Carolina State University the sum of one
3 hundred thousand dollars (\$100,000) for the 2007-2008 fiscal year for the Use-Value
4 Advisory Board established under G.S. 105-277.7.

5 **SECTION 7.2.** Section 7.1 of this act becomes effective July 1, 2007.
6 Sections 1.1 through 1.9 of this act are effective for taxes imposed for taxable years
7 beginning on or after July 1, 2008. Section 4.1 through 4.4 of this act become effective
8 January 1, 2008. The remainder of this act is effective when it becomes law.