

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 709*

**Senate Agriculture/Environment/Natural Resources Committee Substitute Adopted
8/6/09**

Short Title: Address Erosion Control Issues.

(Public)

Sponsors:

Referred to:

March 23, 2009

A BILL TO BE ENTITLED

1 AN ACT TO IMPOSE A MORATORIUM ON CERTAIN ACTIONS OF THE COASTAL
2 RESOURCES COMMISSION RELATED TO TEMPORARY EROSION CONTROL
3 STRUCTURES AND TO DIRECT THE COASTAL RESOURCES COMMISSION TO
4 STUDY THE FEASIBILITY AND ADVISABILITY OF THE USE OF A TERMINAL
5 GROIN AS AN EROSION CONTROL DEVICE.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.(a)** Definitions and Concepts. – The following definitions and
9 concepts apply to Sections 1 of this act and its implementation:

- 10 (1) "Temporary erosion control structure" means a sandbag structure placed
11 above mean high water and parallel to the shore.
- 12 (2) A community is considered to be actively pursuing a beach nourishment or
13 inlet relocation project under any of the following circumstances:
- 14 a. The community has a current and valid Coastal Area Management
15 Act permit for the project.
- 16 b. The community has been identified by a U.S. Army Corps of
17 Engineers' Beach Nourishment Reconnaissance Study, General
18 Reevaluation Report, Coastal Storm Damage Reduction Study, or an
19 ongoing feasibility study by the U.S. Army Corps of Engineers.
- 20 c. The community has received a favorable economic evaluation report
21 on a federal project or is in the planning stages of a project that (i)
22 has been designed by the U.S. Army Corps of Engineers or persons
23 meeting applicable State occupational licensing requirements and (ii)
24 has been initiated by a local government or community working
25 toward the identification and adoption of a mechanism to provide the
26 necessary local or State funds to construct the project.

27 **SECTION 1.(b)** Moratorium Established. – Notwithstanding Article 7 of Chapter
28 113A of the General Statutes and rules adopted pursuant to Article 7, there is hereby
29 established a moratorium on certain actions of the Coastal Resources Commission related to
30 temporary erosion control structures. The Commission shall not order the removal of a
31 temporary erosion control structure that has been permitted under Article 7 of Chapter 113A of
32 the General Statutes in a community that is actively pursuing a beach nourishment project or an
33 inlet relocation project on or before the effective date of this act.

34 **SECTION 1.(c)** Exceptions. – The moratorium on certain actions by the Coastal
35 Resources Commission related to temporary erosion control structures shall not prohibit the
36 Commission from undertaking any of the following actions:



- 1 (1) Granting permit modifications to allow the replacement, within the
2 originally permitted dimensions, of temporary erosion control structures that
3 have been damaged or destroyed.
- 4 (2) Requiring the removal of temporary erosion control structures installed in
5 violation of Article 7 of Chapter 113A of the General Statutes and rules
6 adopted pursuant to Article 7.
- 7 (3) Requiring that a temporary erosion control structure that has been modified
8 in violation of Article 7 of Chapter 113A of the General Statutes and rules
9 adopted pursuant to Article 7 be brought back into compliance with permit
10 conditions.
- 11 (4) Requiring the removal of a temporary erosion control structure that no
12 longer protects an imminently threatened road and associated right-of-way
13 or an imminently threatened building and associated septic system.

14 **SECTION 2.(a)** Study. – The Coastal Resources Commission, in consultation with
15 the Division of Coastal Management, the Division of Land Resources, and the Coastal
16 Resources Advisory Commission, shall conduct a study of the feasibility and advisability of the
17 use of a terminal groin as an erosion control device at the end of a littoral cell or the side of an
18 inlet to limit or control sediment passage into the inlet channel. For the purpose of this study, a
19 littoral cell is defined as any section of coastline that has its own sediment sources and is
20 isolated from adjacent coastal reaches in terms of sediment movement.

21 **SECTION 2.(b)** Specific Considerations. – In conducting the study, the
22 Commission shall specifically consider all of the following:

- 23 (1) Scientific data regarding the effectiveness of terminal groins constructed in
24 North Carolina and other states in controlling erosion. Such data will include
25 consideration of the effect of terminal groins on adjacent areas of the
26 coastline.
- 27 (2) Scientific data regarding the impact of terminal groins on the environment
28 and natural wildlife habitats.
- 29 (3) Information regarding the engineering techniques used to construct terminal
30 groins, including technological advances and techniques that minimize the
31 impact on adjacent shorelines.
- 32 (4) Information regarding the current and projected economic impact to the
33 State, local governments, and the private sector from erosion caused by
34 shifting inlets, including loss of property, public infrastructure, and tax base.
- 35 (5) Information regarding the public and private monetary costs of the
36 construction and maintenance of terminal groins.
- 37 (6) Whether the potential use of terminal groins should be limited to navigable,
38 dredged inlet channels.

39 **SECTION 2.(c)** Public Input. – In conducting the study, the Commission shall hold
40 at least three public hearings where interested parties and members of the general public will
41 have the opportunity to present views and written material regarding the feasibility and
42 advisability of the use of a terminal groin as an erosion control device at the end of a littoral
43 cell or the side of an inlet to limit or control sediment passage into the inlet channel.

44 **SECTION 2.(d)** Report. – No later than April 1, 2010, the Commission shall report
45 its findings and recommendations to the Environmental Review Commission and the General
46 Assembly.

47 **SECTION 3.** This act is effective when it becomes law. Section 1 of this act
48 expires September 1, 2010.