

GENERAL ASSEMBLY OF NORTH CAROLINA  
1987 SESSION

CHAPTER 641  
SENATE BILL 870

AN ACT TO REORGANIZE THE MARINE FISHERIES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Part 5 of Article 7 of Chapter 143B of the General Statutes of North Carolina is repealed effective September 30, 1987. The terms of all members of the Marine Fisheries Commission appointed pursuant to G.S. 143B-287 shall expire at that time.

Sec. 2. Article 7 of Chapter 143B of the General Statutes of North Carolina is amended by the addition of a new Part to read:

"Part 5A. Marine Fisheries Commission

"§ 143B-289.1. **Title.**—This Part shall be known and may be cited as the North Carolina Marine Fisheries Act of 1987.

"§ 143B-289.2. **Definitions.**—(a) As used in this Part:

- (1) 'Commission' means the North Carolina Marine Fisheries Commission.
- (2) 'Department' means the North Carolina Department of Natural Resources and Community Development.
- (3) 'Fisheries Director' means the Director of the North Carolina Division of Marine Fisheries of the Department of Natural Resources and Community Development.
- (4) 'Secretary' means the Secretary of Natural Resources and Community Development.

(b) The terms used in this Part shall have the same meaning as terms defined in G.S. 113-129.

"§ 143B-289.3. **Marine Fisheries Commission - creation; purpose and transfer of function.**—(a) There is hereby created the Marine Fisheries Commission of the Department of Natural Resources and Community Development.

- (b) The function, purpose, and duty of the Marine Fisheries Commission shall be:
- (1) to manage, restore, develop, cultivate, conserve, protect, and regulate the marine and estuarine resources of the State of North Carolina;
  - (2) to implement the laws, relating to coastal fisheries, coastal fishing, shellfish, and crustaceans, and other marine and estuarine resources enacted by the General Assembly, through the promulgation of rules and policies, to the end that there may be provided a sound, constructive, comprehensive, continuing, and economical coastal fisheries program directed by citizens, who shall have knowledge of or

training in the protection, restoration, proper use and management of marine and estuarine resources; and

- (3) to advise the State regarding ocean and marine fisheries within the jurisdiction of the Atlantic States Marine Fisheries Compact, the South Atlantic Fishery Management Council, and other similar organizations established to manage or regulate fishing in the Atlantic Ocean.

The powers and duties of the Marine Fisheries Commission established under G.S. 143B-286 are transferred to the Marine Fisheries Commission created by this Part.

(c) All decisions heretofore made by the Marine Fisheries Commission, appointed pursuant to G.S. 143B-287, shall remain in full force and effect unless repealed or suspended by action of the Marine Fisheries Commission established in the North Carolina Marine Fisheries Act of 1987. All rules and regulations heretofore adopted pursuant to the provisions of the Administrative Procedures Act of the General Statutes by the Marine Fisheries Commission, appointed pursuant to G.S. 143B-287, shall remain in full force and effect until repealed or amended by action of the Marine Fisheries Commission established herein.

**"§ 143B-289.4. Marine Fisheries Commission - powers and duties.**—The Marine Fisheries Commission shall have the power and duty to adopt rules and regulations to be followed in the management, protection, preservation, and enhancement of the marine and estuarine resources of the State including commercial and sports fisheries resources.

(1) The Marine Fisheries Commission shall have the following powers and duties:

- (a) To authorize, license, regulate, prohibit, prescribe, or restrict all forms of marine and estuarine resources in coastal fishing waters with respect to:
  - (1) Time, place, character, or dimensions of any methods or equipment that may be employed in taking fish;
  - (2) Seasons for taking fish;
  - (3) Size limits on and maximum quantities of fish that may be taken, possessed, bailed to another, transported, bought, sold, or given away.
- (b) To adopt regulations and take all steps necessary to develop and improve aquaculture, including the cultivation, harvesting, and marketing of shellfish and other marine resources, in North Carolina involving the use of public grounds and private beds as provided in G.S. 113-201;
- (c) To close areas of public bottoms under coastal fishing waters for such time as may be necessary in any program of propagation of shellfish as provided in G.S. 113-204;
- (d) In the interest of conservation of the marine and estuarine resources of North Carolina, to institute an action in the superior court to contest the claim of title or claimed right of fishery in any navigable waters of North Carolina registered with the Department as provided in G.S. 113-206(d);

- (e) To delegate to the Fisheries Director the authority by proclamation to suspend or implement, in whole or in part, particular regulations of the Commission which may be affected by variable conditions as provided in G.S. 113-221(e);
  - (f) To make reciprocal agreements with other jurisdictions respecting any of the matters governed in this Subchapter as provided by G.S. 113-223;
  - (g) To adopt relevant provisions of federal laws and regulations as State regulations pursuant to G.S. 113-228; and
  - (h) To comment on and otherwise participate in the determination of permit applications received by State agencies which may have an effect on the marine and estuarine resources of the State.
- (2) The Marine Fisheries Commission shall have the power and duty to establish standards and adopt rules and regulations:
- (a) Implementing the provisions of Subchapter IV of Chapter 113 as provided in G.S. 113-134 of the General Statutes of the State of North Carolina;
  - (b) For the disposition of confiscated property as set forth in G.S. 113-137;
  - (c) Governing all license requirements and taxes prescribed in Chapter 113, Article 14;
  - (d) Governing the importation and exportation of fish, and equipment that may be used in taking or processing fish, as necessary to enhance the conservation of marine and estuarine resources of North Carolina as provided in G.S. 113-160;
  - (e) Governing the possession, transportation and disposition of seafood, as provided in G.S. 113-164;
  - (f) Regarding the disposition of the young of edible fish, as provided by G.S. 113-185;
  - (g) Regarding the leasing of public grounds for aquaculture, including oysters and clam production, as provided in G.S. 113-202;
  - (h) Governing utilization of private fisheries, as provided in G.S. 113-205;
  - (i) Imposing further restrictions upon the throwing of fish offal in any coastal fishing waters, as provided in G.S. 113-265;
  - (j) Governing the location and utilization of artificial reefs in coastal waters; and
  - (k) Regulating the placement of nets and other sports or commercial fishing apparatus in coastal fishing waters with regard to navigational recreational safety as well as from a conservation standpoint.
- (3) The Commission is authorized to authorize, license, prohibit, prescribe, or restrict:
- (a) The opening and closing of coastal fishing waters, except as to inland game fish, whether entirely or only as to the taking of particular

classes of fish, use of particular equipment, or as to other activities; and

- (b) The possession, cultivation, transportation, importation, exportation, sale, purchase, acquisition, and disposition of all marine and estuarine resources and all related equipment, implements, vessels, and conveyances as necessary to carry out its duties.

(4) The Commission is authorized and empowered to make such rules and regulations, not inconsistent with the laws of this State, as may be required by the federal government for grants-in-aid for coastal resource purposes which may be made available to the State by the federal government. This section is to be liberally construed in order that the State and its citizens may benefit from such grants-in-aid.

(5) The Commission shall make rules and regulations consistent with the provisions of this Chapter. All rules and regulations adopted by the Commission shall be enforced by the Department of Natural Resources and Community Development.

(6) As a quasi-judicial agency, the Commission, in accordance with Article IV, Section 3 of the Constitution, has such judicial powers as may be reasonably necessary as an incident to the accomplishment of the purposes for which it was created.

**"§ 143B-289.5. Marine Fisheries Commission - members; selection; removal; compensation; quorum; services.**—(a) Members, Selection. The Marine Fisheries Commission shall consist of 15 members appointed by the Governor. The Governor shall select the members so that all the following interests are represented:

- (1) Four who shall at the time of appointment be actively connected with and have experience in commercial fishing, as demonstrated by deriving at least fifty percent (50%) of earned income from taking and selling food resources living in coastal fishing waters;
- (2) Four who shall at the time of appointment be actively connected with and have experience in sport fishing;
- (3) Three who shall at the time of appointment have special training and expertise in marine or estuarine sciences or the environment affecting the marine and estuarine resources;
- (4) Two who shall at the time of appointment be actively connected with and have experience in seafood processing and distribution as demonstrated by deriving at least fifty percent (50%) of earned income from activities involving processing and distributing seafood;
- (5) Two at large who shall at the time of appointment have knowledge of and experience related to the subjects and persons regulated by the Commission.

In making appointments to and filling vacancies upon the Commission, the Governor shall give due consideration to securing appropriate representation of women and minorities.

(b) Terms. Members shall serve staggered terms of office of six years. Commission members may continue to serve until their successors have been appointed. Each member of the Commission, before assuming the duties of his office, shall take an oath for the faithful performance of his duties.

(c) Vacancies. Vacancies on the Commission occurring for any reason shall be filled by the Governor. Any appointment to fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a member shall be for the balance of the unexpired term.

(d) Removal. Commission members may be removed by the Governor for misconduct, incompetence, or neglect of duty. Regular attendance at Commission meetings is a duty of each member. The Commission shall develop procedures for declaring any seat on the Commission to be vacant upon failure by a member to perform his duty.

(e) Residential Qualifications. In appointing four members of the Commission pursuant to G.S. 143B-289.5(a)(1), the Governor shall cause at least one resident of each of the following areas to be appointed: (1) Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell and Washington Counties; (2) Beaufort, Hyde and Pamlico Counties; (3) Carteret, Craven and Jones Counties; (4) Bladen, Brunswick, Columbus, New Hanover, Onslow and Pender Counties. Persons appointed to the Commission seats created pursuant to G.S. 143B-289.5(a)(4) shall be residents of one of the counties listed above. No more than three members appointed by the Governor may reside in any of the areas defined above.

(f) Office May Be Held Concurrently With Others. Membership on the Marine Fisheries Commission is hereby declared to be an office that may be held concurrently with other elective or appointive offices permitted to be held by one person under G.S. 128-1.1.

(g) Compensation. Members of the Commission who are State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Commission who are full-time salaried public officers or employees other than State officers or employees shall receive no per diem compensation for serving on the Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in the same manner as State officers or employees. All other Commission members shall receive per diem compensation and reimbursement in accordance with the compensation rate established in G.S. 93B-5.

(h) Quorum. A majority of the Commission of the duly appointed members shall constitute a quorum for the transaction of business. No vacancy in the membership of the Commission shall impair the rights of a quorum to exercise all the rights and to perform all the duties of the Commission.

(i) Staff. All clerical and other services required by the Commission shall be supplied by the Fisheries Director and the Department of Natural Resources and Community Development.

(j) Legal Services. The Attorney General shall act as attorney for the Commission and shall initiate actions in the name of, and at the request of, the Commission, and shall represent the Commission in the hearing of any appeal from or other review of any order of the Commission.

**"§ 143B-289.6. Marine Fisheries Commission - organization; selection of officers; Robert's Rules of Order.**—(a) The Marine Fisheries Commission shall have a chairman and a vice-chairman. The chairman shall be designated by the Governor from among the members of the Commission to serve at the pleasure of the Governor. At the first scheduled meeting of the Commission after October 1, 1987, and on July 1 of each odd-numbered year thereafter, the Commission shall select from among its membership a vice-chairman who shall serve for a term of two years or until his successor is elected and qualified.

(b) The chairman shall guide and coordinate the official actions and official activities of the Commission in fulfilling its program responsibility for setting the statewide policy of the Commission. The chairman shall report to and advise the Governor and the Secretary on the official actions and work of the Commission and on all marine and estuarine conservation and ocean fishery matters that affect the interest of the people of the State.

(c) The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Article, and shall have an official seal, which shall be judicially noticed.

(d) Meetings of the Commission shall be conducted pursuant to the bylaws of the Commission or Robert's Rules of Order when the bylaws do not provide necessary procedures.

**"§ 143B-289.7. Marine Fisheries Commission - meetings.**—The Marine Fisheries Commission shall meet at least once in each quarter and may hold special meetings at any time and place within the State at the call of the chairman or upon the written request of at least five members. At least three of the four quarterly meetings of the Marine Fisheries Commissions shall be held in the coastal area as that area is defined in G.S. 113A-103.

**"§ 143B-289.8. Marine Fisheries Endowment Fund.**—(a) Recognizing the inestimable importance to the State and its people of conserving the marine and estuarine resources of North Carolina, and for the purpose of providing the opportunity for citizens and residents of the State to invest in the future of its marine and estuarine resources, there is created the North Carolina Marine Fisheries Endowment Fund, the income and principal of which shall be used only for the purpose of supporting marine and estuarine resource conservation programs of the State in accordance with this section.

(b) There is created the Board of Trustees of the Marine Fisheries Endowment Fund of the Marine Fisheries Commission, with full authority over the administration of the Marine Fisheries Endowment Fund, whose ex officio chairman, vice-chairman, and members shall be the chairman, vice-chairman, and members of the Marine Fisheries Commission. The State Treasurer shall be the custodian of the Marine Fisheries Endowment Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3.

(c) The assets of the Marine Fisheries Endowment Fund shall be derived from the following:

- (1) The proceeds of any gifts, grants and contributions to the State which are specifically designated for inclusion in the fund; and
- (2) Such other sources as may be specified by law.

(d) The Marine Fisheries Endowment Fund is declared to constitute a special trust derived from a contractual relationship between the State and the members of the public whose investments contribute to the fund. In recognition of such special trust, the following limitations and restrictions are placed on expenditures from the funds.

- (1) Any limitations or restrictions specified by the donors on the uses of the income derived from the gifts, grants and voluntary contributions shall be respected but shall not be binding.
- (2) No expenditure or disbursement shall be made from the principal of the Marine Fisheries Endowment Fund except as otherwise provided by law.
- (3) The income received and accruing from the investments of the Marine Fisheries Endowment Fund must be spent only in furthering the conservation of marine and estuarine resources.

(e) The Board of Trustees of the Marine Fisheries Endowment Fund may accumulate the investment income of the fund until the income, in the sole judgment of the trustees, can provide a significant supplement to the budget for the conservation and management of marine and estuarine resources. After that time the trustees, in their sole discretion and authority, may direct expenditures from the income of the fund for the purposes set out in subdivision (3) subsection (d) above.

(f) Expenditure of the income derived from the Marine Fisheries Endowment Fund shall be made through the State budget accounts of the Marine Fisheries Commission in accordance with the provisions of the Executive Budget Act. The Marine Fisheries Endowment Fund is subject to the oversight of the State Auditor pursuant to G.S. 147-58.

(g) The Marine Fisheries Endowment Fund and the income therefrom shall not take the place of State appropriations, but any portion of the income of the Marine Fisheries Endowment Fund available for the purpose set out in subdivision (3) subsection (d) above shall be used to supplement other income of and appropriations for the conservation and management of marine and estuarine resources to the end that the Commission may improve and increase its services and become more useful to a greater number of people.

(h) In the event of a future dissolution of the Marine Fisheries Commission, such State agency as shall succeed to its budgetary authority shall, ex officio, assume the trusteeship of the Marine Fisheries Endowment Fund and shall be bound by all the limitations and restrictions placed by this section on expenditures from the fund.

**"§ 143B-289.9. Conservation Fund; Commission may accept gifts.**—(a) The Marine Fisheries Commission is hereby authorized and empowered to accept gifts, donations or contributions from any sources, which funds shall be held in a separate account and used solely for the purposes of marine and estuarine conservation and management. Such funds shall be administered by the Marine Fisheries Commission and shall be used for marine and estuarine resources management, including education about the

importance of conservation, in a manner consistent with marine and estuarine conservation management principles.

(b) The Marine Fisheries Commission is hereby authorized to issue and sell appropriate emblems by which to identify recipients thereof as contributors to a special marine and estuarine resources conservation fund which shall be made available to the Marine Fisheries Commission for conservation, protection, enhancement, preservation and perpetuation of marine and estuarine species which may be endangered or threatened with extinction and for education about these issues. The special conservation fund will be audited by the State Auditor. Emblems of different size, shape, type or design may be used to recognize contributions in different amounts, but no such emblem shall be issued for a contribution amounting in value to less than five dollars (\$5.00).

**"§ 143B-289.10. Article subject to Chapter 113.** – Nothing in this Article shall be construed to affect the jurisdictional division between the North Carolina Marine Fisheries Commission and the North Carolina Wildlife Resources Commission contained in Subchapter IV of Chapter 113 of the General Statutes, or in any way to alter or abridge the powers and duties of the two agencies conferred in that Subchapter.

**"§ 143B-289.11. Jurisdictional questions.** – In the event of any questions arising between the North Carolina Wildlife Resources Commission and the North Carolina Marine Fisheries Commission or between the Department of Natural Resources and Community Development and the North Carolina Marine Fisheries Commission as to any duty or responsibility or authority imposed upon either of said bodies by law, or in case of any conflicting rules or regulations or administrative practices adopted by said bodies, such questions or matters shall be determined by the Governor of the State and his determination shall be binding on each of said bodies.

**"§ 143B-289.12. Regulations of Department continued.** – All rules and regulations now in force with respect to marine and estuarine resources as herein defined, promulgated by the Department of Natural Resources and Community Development under Chapter 113 of the General Statutes of North Carolina, shall continue in full force and effect until altered, modified, amended, or rescinded by the Commission created under this Part, or repealed or modified by law."

Sec. 3. The initial appointments to the Marine Fisheries Commission shall be as follows: Five members to be appointed by the Governor shall serve initial terms of four years to expire on September 30, 1991, which five members shall include one member pursuant to G.S. 143B-289.5(a) (1), two members pursuant to G.S. 143B-289.5 (a) (3) and two members pursuant to G.S. 143B-289.5 (a) (2). An additional five members to be appointed by the Governor shall serve initial terms of two years to expire on September 30, 1989, which five members shall include three members pursuant to G.S. 143B-289.5(a) (1), two members pursuant to G.S. 143B-289.5 (a) (4). The remaining five members shall serve six-year terms.

Sec. 4. G.S. 113-128 is amended as follows:

(a) Deletion from "(3) Department." of the second sentence which reads "References to the Department include, when appropriate, the Marine Fisheries Commission.";



(b) "(5a)" is amended by substituting for the words "Part 5" the words "Part 5A".

(c) Addition of a new subsection to read:

"(4a) Fisheries Director. Director, North Carolina Division of Marine Fisheries of the Department of Natural Resources and Community Development who shall be qualified for the office by education or experience."

Sec. 5. The following statutes are amended by substituting for the word "Department" the words "Marine Fisheries Commission": G.S. 113-129 (10); 113-132(a) and (d); 113-134.1; 113-154(e); 113-155.1; 113-156.1(a) and (b); and 113-185(a).

Sec. 6. The following statutes are amended by substituting for the words "Department of Natural Resources and Community Development" the words "Marine Fisheries Commission": G.S. 113-129(3); 113-156(e); 113-187(d); 113-203(a)(1); 113-315.2 and 113-315.5.

Sec. 7. G.S. 113-221 is amended by substituting for the word "Secretary" the words "Fisheries Director"; G.S. 113-221(e) is amended by substituting for the word "Department" the words "Fisheries Director"; and G.S. 113-221(e) is further amended by deleting from the eighth sentence in the first paragraph the words "or the person designated by the Secretary to issue proclamations".

Sec. 8. G.S. 113-134.1 is amended by deleting from the first sentence the words, "enforcement and".

Sec. 9. G.S. 113-254 is amended by substituting for the words "Secretary of Natural Resources and Community Development" the words "Fisheries Director of the Division of Marine Fisheries of the Department of Natural Resources and Community Development" and is further amended by rewriting the seventh sentence to read:

"The Fisheries Director of the Division of Marine Fisheries appointed pursuant to Article III as ex officio commissioner may delegate, from time to time, to any deputy or other subordinate of the Fisheries Director, the power to be present and participate, including voting, as his representative or substitute at any meeting of or hearing by or other proceedings of the Commission."

Sec. 10. G.S. 113-163 is amended in paragraph (a) by substituting for the first two words of the paragraph the words "The Marine Fisheries Commission" and is further amended in paragraph (c) by substituting for the words "required by the Department" the words "required by the Marine Fisheries Commission".

Sec. 11. G.S. 113-228 is amended in the second sentence after the words "Marine Fisheries Commission" by the addition of the following: "is exempt from any conflicting limitations in G.S. 150B-14 so that it".

Sec. 12. G.S. 77-13 is amended in the third sentence after the words "enforced by" by the addition of the words "marine fisheries inspectors, wildlife protectors, or".

Sec. 13. G.S. 77-14 is amended in the second sentence after the words "enforced by" by the addition of the words "marine fisheries inspectors, wildlife protectors, or".

Sec. 14. G.S. 113-131 is amended by designating the present statute as paragraph (a) and is further amended by adding a new paragraph to read:

"(b) The following powers are hereby granted to the Department and the Wildlife Resources Commission and may be delegated to the Fisheries Director and the Executive Director:

- (1) Comment on and object to permit applications submitted to State agencies which may affect the public trust resources in the land and water areas subject to their respective management duties so as to conserve and protect the public trust rights in such land and water areas;
- (2) Investigate alleged encroachments upon, usurpations of, or other actions in violation of the public trust rights of the people of the State; and
- (3) Initiate contested case proceedings under Chapter 150B for review of permit decisions by State agencies which will adversely affect the public trust rights of the people of the State or initiate civil actions to remove or restrain any unlawful or unauthorized encroachment upon, usurpation of, or any other violation of the public trust rights of the people of the State or legal rights of access to such public trust areas.

(c) Whenever there exists reasonable cause to believe that any person or other legal entity has unlawfully encroached upon, usurped, or otherwise violated the public trust rights of the people of the State or legal rights of access to such public trust areas, a civil action may be instituted by the responsible agency for injunctive relief to restrain the violation and for a mandatory preliminary injunction to restore the resources to an undisturbed condition. The action shall be brought in the superior court of the county in which the violation occurred. The institution of an action for injunctive relief under this section shall not relieve any party to such proceeding from any civil or criminal penalty otherwise prescribed for the violation.

(d) The Attorney General shall act as the attorney for the agencies and shall initiate actions in the name of and at the request of the Department or the Wildlife Resources Commission.

(e) In this section, the term 'public trust resources' means land and water areas, both public and private, subject to public trust rights as that term is defined in G.S. 1-45.1."

Sec. 15. G.S. 113-201.1 is amended by the addition of a new subparagraph to read:

"(5) 'Water column' means the vertical extent of water, including the surface thereof, above a designated area of submerged bottom land."

Sec. 16. G.S. 113-202 is amended by the addition of a new sentence to read:

"To the extent required by demonstration or research aquaculture development projects, the Marine Fisheries Commission may amend existing leases and issue leases that authorize use of the bottom and the water column, notwithstanding the factors enumerated in subsection (a) of this section."

Sec. 17. G.S. 113-152 is amended as follows:

(1) The first sentence in the third paragraph of (a) is amended by substituting for the word "license" the words "licenses including vessel, gear, or other license required by the Commission";

(2) Paragraph (c) is amended by the addition of a new subsection (6) to read:

"(6) Vessels engaged in commercial fishing operations for which the Commission requires a gear or equipment license shall be subject to fees as prescribed in subsection (g)."

(3) The addition of a new paragraph (g) to read:

"Gear or equipment licenses shall be issued upon the payment of fees as prescribed by the Commission in its duly adopted regulations at a rate to be established by the Commission between twenty-five dollars (\$25.00) and five hundred dollars (\$500.00) per license. The fee rate for gear or equipment licenses, at a minimum, shall be adequate to compensate the Department for the actual and administrative cost associated with the conservation and management of the fishery. Gear or equipment licenses may be required for commercial fishing operations that do not involve the use of a vessel." and

(4) The title of G.S. 113-152 is amended to read: "Licensing of vessels, equipment and operations; fees."

Sec. 18. Subchapter IV of Chapter 113 of the General Statutes of North Carolina is amended by the addition of a new Article to be entitled "Article 19A. South Atlantic Fishery Management Council." and to read:

"Article 19A. South Atlantic Fishery Management Council.

"§ 113-259. **North Carolina members of the Council.**—(a) In pursuance of Section 302 of the Magnuson Fishery Conservation and Management Act, 16 United States Code § 1801 et seq., there shall be at least two members of the South Atlantic Fishery Management Council from the State of North Carolina.

(b) The first Council member shall be the principal State official with marine fishery management responsibility and expertise in the State which official is the Fisheries Director of the Division of Marine Fisheries of the Department of Natural Resources and Community Development, or the designee of such official.

(c) Pursuant to the enabling legislation, other members from the State of North Carolina are selected by the United States Secretary of Commerce from a list of qualified individuals submitted by the Governor of the State. The list of nominees shall be compiled by the Marine Fisheries Commission and must be comprised of individuals who are knowledgeable and experienced with regard to the management, conservation, or recreational harvest of the fishery resources in the Atlantic Ocean seaward of the States of North Carolina, South Carolina, Georgia, and Florida. Prior to submission of the list of nominees, the Governor may consult with the Commission regarding additions to the list of nominees to be submitted. Should it be necessary for the Governor to submit additional nominees, the list of nominees shall be compiled by the Marine Fisheries Commission."

Sec. 19. G.S. 113-221 is amended in:

- (1) Paragraph (a) by substituting for the words "Attorney General in accordance with Chapter 150A" the words "Office of Administrative Hearings in accordance with Chapter 150B", and
- (2) Paragraph (e) in the last sentence of the first paragraph by substituting for the word "150A" the word "150B".

Sec. 20. G.S. 113-136(b) is amended after the words "Chapter 143B of the General Statutes," by the addition of the words "Article 5 of Chapter 76 of the General Statutes,".

Sec. 21. G.S. 120-123 is amended by the addition of a new subsection to read:

"(51) The North Carolina Marine Fisheries Commission as established by G.S. 143B-289.5."

Sec. 22. G.S. 113-136(b) is amended by substituting for the words "Part 5" the words "Part 5A".

Sec. 23. Sections 1, 2, 3, 21, and 22 of this bill shall be effective October 1, 1987, and the remaining sections shall be effective upon ratification.

In the General Assembly read three times and ratified this the 20th day of July, 1987.