

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1596

Short Title: State Env. Policy Act/Public Lands.

(Public)

Sponsors: Representatives Ethridge; Gottovi, H. Hunter, and Luebke.

Referred to: Environment.

June 4, 1992

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE APPLICATION OF THE NORTH CAROLINA ENVIRONMENTAL POLICY ACT OF 1971 TO INCLUDE THE USE OF PUBLIC LAND AND TO CLARIFY THE PURPOSE AND REVIEW PROCESS FOR ENVIRONMENTAL DOCUMENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 113A-2 reads as rewritten:

"§ 113A-2. Purposes.

The purposes of this Article are: to declare a State policy which will encourage the wise, productive, and beneficial use of the natural resources of the State without damage to the environment, maintain a healthy and pleasant environment, and preserve the natural beauty of the State; to encourage an educational program which will create a public awareness of our environment and its related programs; to require agencies of the State to consider and report upon environmental aspects and consequences of their actions involving the expenditure of public moneys; moneys or use public land; and to provide means to implement these purposes."

Sec. 2. G.S. 113A-4(2) reads as rewritten:

"(2) ~~Any Every State agency shall include in every recommendation or report on proposals for legislation and actions include in every recommendation or report on any action~~ involving expenditure of public moneys or use of public land for projects and programs significantly affecting the quality of the environment of this State, a detailed statement by the responsible official setting forth the following:

- a. The environmental impact of the proposed action;

- 1 b. Any significant adverse environmental effects which cannot be
2 avoided should the proposal be implemented;
3 c. Mitigation measures proposed to minimize the impact;
4 d. Alternatives to the proposed action;
5 e. The relationship between the short-term uses of the
6 environment involved in the proposed action and the
7 maintenance and enhancement of long-term productivity; and
8 f. Any irreversible and irretrievable environmental changes which
9 would be involved in the proposed action should it be
10 implemented."

11 Sec. 3. G.S. 113A-9 reads as rewritten:

12 **"§ 113A-9. Definitions.**

13 As used in this Article, unless the context indicates ~~otherwise:~~ otherwise, the term:

- 14 (1) 'Environmental assessment' (EA) means a document prepared by a
15 State agency to evaluate whether the probable impacts of a proposed
16 action require the preparation of an environmental impact statement
17 under this Article.
18 (2) 'Environmental document' means an environmental assessment, an
19 environmental impact statement, or a finding of no significant impact.
20 (3) 'Environmental impact statement' (EIS) means the detailed statement
21 described in G.S. 113A-(4)2.
22 (4) 'Finding of no significant impact' (FONSI) means a document prepared
23 by a State agency that lists the probable environmental impacts of a
24 proposed action, concludes that a proposed action will not result in a
25 significant adverse effect on the environment, states the specific reason
26 or reasons for such conclusion, and states that an environmental impact
27 statement is not required under this Article.
28 ~~(1) The term 'major~~
29 (5) 'Major development project' shall include but is not limited to
30 shopping centers, subdivisions and other housing developments, and
31 industrial and commercial projects, but shall not include any projects
32 of less than two contiguous acres in extent.
33 (6) [Reserved for future codification purposes.]
34 (7) 'Public land' means all land and interests therein, title of which is
35 vested in the State of North Carolina, in any State agency, or in the
36 State for the use of any State agency or political subdivision of the
37 State, and includes all vacant and unappropriated land, swampland,
38 submerged land, land acquired by the State by virtue of being sold for
39 taxes, escheated land, and acquired land.
40 ~~(2) The term 'special purpose~~
41 (8) 'Special-purpose unit of government' includes any special district or
42 public authority.
43 ~~(3) The term~~

(9) 'State agency' includes every department, agency, institution, public authority, board, commission, bureau, division, council, member of Council of State, or officer of the State government of the State of North Carolina, but does not include local governmental units or bodies such as cities, towns, other municipal corporations or political subdivisions of the State, county or city boards of education, other local special-purpose public districts, units or bodies of any kind, or private corporations created by act of the General Assembly, except in those instances where programs, projects and actions of local governmental units or bodies are subject to review, approval or licensing by State agencies in accordance with existing statutory authority, in which case local governmental units or bodies shall supply information which may be required by such State agencies for preparation of any environmental statement required by this Article.

(4) ~~The term responsible~~

(10) ~~'State official,' as used in this Article, shall mean official'~~ means the Director, Commissioner, Secretary, Administrator or Chairman of the State agency having primary statutory authority for specific programs, projects or actions subject to this Article, or his authorized representative.

(11) 'Use' as applied to public land includes:

a. The grant of a lease, easement, or permit authorizing private use of public land.

b. Use of privately owned land for any project or program if the State or any agency of the State has agreed to purchase or otherwise acquire the privately owned land, including the acquisition of privately owned land in exchange for public land.

(12) 'Utility line' means any electric power line, water line, sewage line, stormwater drainage line, telephone line, telegraph line, cable television line, data transmission line, or natural gas line."

Sec. 4. G.S. 113A-10 reads as rewritten:

"§ 113A-10. Provisions supplemental.

The policies, obligations and provisions of this Article are supplementary to those set forth in existing authorizations of and statutory provisions applicable to State agencies and local governments. In those instances where a State agency is required to prepare an environmental ~~statement, or comments thereon, document or to comment on an~~ environmental document under provisions of federal law, ~~such statement or comments the~~ environmental document or comment will meet the provisions of this Article."

Sec. 5. Article 1 of Chapter 113A of the General Statutes is amended by adding two new sections to read:

"§ 113A-11. Environmental document not required in certain cases.

No environmental document shall be required in connection with:

(1) The construction, maintenance, or removal of a utility line within or across the right-of-way of any street or highway.

1 (2) An action approved under a general permit issued under G.S. 113A-
2 118.1, 143-215.1(b)(3), or 143-215.108(b)(8).

3 **§ 113A-12. Administrative and judicial review.**

4 The preparation of an environmental document required under this Article is
5 intended to assist the responsible agency in determining the appropriate decision on the
6 proposed action. An environmental document required under this Article is a necessary
7 part of an application or other request for agency action. Administrative and judicial
8 review of an environmental document is incidental to, and may only be undertaken in
9 connection with, review of the agency action. No other review of an environmental
10 document is allowed."

11 Sec. 6. Section 2 of this act becomes effective 1 October 1992 and applies to
12 any action involving use of public land for a project or program that is authorized on or
13 after 1 October 1992. Section 1 and Sections 3 through 6 of this act are effective upon
14 ratification.