

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1596

Committee Substitute Favorable 6/19/92

Senate Environment and Natural Resources Committee Substitute Adopted 7/7/92

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

(Public)

Sponsors:

Referred to:

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 of 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

1 quality of the environment of this State, a detailed statement by the
2 responsible official setting forth the following:

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

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

15 **"§ 113A-9. Definitions.**

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

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

- 1 (2) ~~The term 'special purpose~~
 2 (8) 'Special-purpose unit of government' includes any special district or
 3 public authority.
 4 (3) ~~The term~~
 5 (9) 'State agency' includes every department, agency, institution, public
 6 authority, board, commission, bureau, division, council, member of
 7 Council of State, or officer of the State government of the State of
 8 North Carolina, but does not include local governmental units or
 9 bodies such as cities, towns, other municipal corporations or political
 10 subdivisions of the State, county or city boards of education, other
 11 local special-purpose public districts, units or bodies of any kind, or
 12 private corporations created by act of the General Assembly, except in
 13 those instances where programs, projects and actions of local
 14 governmental units or bodies are subject to review, approval or
 15 licensing by State agencies in accordance with existing statutory
 16 authority, in which case local governmental units or bodies shall
 17 supply information which may be required by such State agencies for
 18 preparation of any environmental statement required by this Article.
 19 (4) ~~The term responsible~~
 20 (10) ~~'State official,' as used in this Article, shall mean official'~~ means the
 21 Director, Commissioner, Secretary, Administrator or Chairman of the
 22 State agency having primary statutory authority for specific programs,
 23 projects or actions subject to this Article, or his authorized
 24 representative.
 25 (11) 'Use of public land' means activity that results in changes in the natural
 26 cover or topography that includes:
 27 a. The grant of a lease, easement, or permit authorizing private use
 28 of public land; or
 29 b. The use of privately owned land for any project or program if
 30 the State or any agency of the State has agreed to purchase the
 31 property or to exchange the property for public land."

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

33 **"§ 113A-10. Provisions supplemental.**

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

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

42 **"§ 113A-11. Environmental document not required in certain cases.**

43 No environmental document shall be required in connection with:

- 1 (1) The construction, maintenance, or removal of an electric power line,
2 water line, sewage line, stormwater drainage line, telephone line,
3 telegraph line, cable television line, data transmission line, or natural
4 gas line within or across the right-of-way of any street or highway.
- 5 (2) An action approved under a general permit issued under G.S. 113A-
6 118.1, 143-215.1(b)(3), or 143-215.108(b)(8).
- 7 (3) A lease or easement granted by a State agency for:
- 8 a. The use of an existing building or facility.
- 9 b. Placement of a wastewater line on or under submerged lands
10 pursuant to a permit granted under G.S. 143-215.1.
- 11 c. A shellfish cultivation lease granted under G.S. 113-202.
- 12 (4) The construction of a driveway connection to a public roadway.

13 **"§ 113A-12. Administrative and judicial review.**

14 The preparation of an environmental document required under this Article is
15 intended to assist the responsible agency in determining the appropriate decision on the
16 proposed action. An environmental document required under this Article is a necessary
17 part of an application or other request for agency action. Administrative and judicial
18 review of an environmental document is incidental to, and may only be undertaken in
19 connection with, review of the agency action. No other review of an environmental
20 document is allowed."

21 Sec. 6. In accordance with G.S. 150B-21.1(a)(2), State agencies may adopt
22 temporary rules to implement this act, including temporary rules to establish minimum
23 criteria. If, prior to adopting a temporary rule, an agency publishes notice of the text of
24 the proposed temporary rule in the North Carolina Register and provides an opportunity
25 for submitting written comment on the rule for at least 30 days after the text is
26 published, the agency may specify an expiration date for the temporary rule of up to one
27 year from the date the rule becomes effective notwithstanding G.S. 150B-21.1(e). An
28 agency may not adopt a temporary rule under this section after 1 January 1993.

29 Sec. 7. (a) In the event that House Bill 1583 is ratified, G.S. 113A-11 and
30 G.S. 113A-12, as enacted by Section 5 of this act, are redesignated as G.S. 113A-12 and
31 G.S. 113A-13 respectively.

32 (b) In the event that House Bill 1583 is ratified, the second sentence of G.S.
33 113A-11(b), as enacted by ratified House Bill 1583, is repealed.

34 Sec. 8. Sections 1 and 2 of this act become effective 1 October 1992 and
35 apply to any action involving use of public land for a project or program that is
36 authorized on or after 1 October 1992. Sections 3 through 8 of this act are effective
37 upon ratification.