

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1463

Short Title: Dept. EHNR Funds.

(Public)

Sponsors: Representatives Gottovi; Wright, DeVane, Colton, Richardson, Hackney, Bowman, James, and Barnes.

Referred to: Appropriations.

May 17, 1993

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE MEMBERSHIP OF THE MARINE FISHERIES
2 COMMISSION, TO ESTABLISH THE OYSTER MANAGEMENT ADVISORY
3 COMMISSION, AND TO APPROPRIATE FUNDS TO THE DEPARTMENT OF
4 ENVIRONMENT, HEALTH, AND NATURAL RESOURCES FOR VARIOUS
5 CAPITAL, PROGRAM, AND OPERATING EXPENSES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 143B-289.5 reads as rewritten:

9 "**§ 143B-289.5. Marine Fisheries Commission – members; selection; removal;
10 compensation; quorum; services.**

11 (a) Members, Selection. – The Marine Fisheries Commission shall consist of ~~45~~
12 17 members appointed by the Governor. The Governor shall select the members so that
13 all the following interests are represented:

14 (1) Four who shall at the time of appointment be commercial fishermen.
15 Of the four, three who—shall at the time of appointment be actively
16 connected with and have experience in commercial fishing, as
17 demonstrated by deriving at least fifty percent (50%) of earned income
18 from taking and selling food resources living in coastal fishing waters;
19 waters, and one shall at the time of appointment be actively connected
20 with and have experience in seafood processing and distribution as
21 demonstrated by deriving at least fifty percent (50%) of earned income
22 from activities involving processing and distributing seafood;

- 1 (2) Four who shall at the time of appointment be actively connected with
2 and have experience in sport fishing;
- 3 (3) Three who shall at the time of appointment have special training and
4 expertise in marine or estuarine sciences or the environment affecting
5 the marine and estuarine resources;
- 6 (4) ~~Two who shall at the time of appointment be actively connected with
7 and have experience in seafood processing and distribution as
8 demonstrated by deriving at least fifty percent (50%) of earned income
9 from activities involving processing and distributing seafood;~~
- 10 (4a) Three who shall at the time of appointment represent
11 shellfishing interests;
- 12 (5) ~~Two~~Three at large who shall at the time of appointment have
13 knowledge of and experience related to the subjects and persons
14 regulated by the Commission.

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

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

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

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

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

41 (f) Office May Be Held Concurrently With Others. – Membership on the Marine
42 Fisheries Commission is hereby declared to be an office that may be held concurrently
43 with other elective or appointive offices permitted to be held by one person under G.S.
44 128-1.1.

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

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

14 (i) Staff. – All clerical and other services required by the Commission shall be
15 supplied by the Fisheries Director and the Department of Environment, Health, and
16 Natural Resources.

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

21 Sec. 2. (a) There is established the Oyster Management Advisory Council.
22 The Oyster Management Advisory Council shall advise the Secretary on rules, policies,
23 and programs to protect and rehabilitate the State's oyster resources. The Council shall
24 consider the topics it deems necessary to protect and rehabilitate the oyster resource,
25 including: causes of decline, regulatory structure and authority, oyster habitat
26 reclamation and expansion, and rezoning of public trust waters to accommodate needs
27 of oyster industry.

28 The Council shall recommend to the Secretary of Environment, Health, and
29 Natural Resources in advance of each Regular Session of the General Assembly,
30 legislative, regulatory, and other proposals to improve regulation and rehabilitation of
31 the oyster resources of the State.

32 (b) The Oyster Management Advisory Council shall consist of 11 members
33 appointed by the Secretary of Environment, Health, and Natural Resources. The
34 membership of the Council shall be comprised as follows:

35 (1) Four members shall be appointed who are actively connected with and
36 have experience in oysters.

37 (2) Two members shall be appointed who have scientific training in
38 marine biology and expertise in oyster resources.

39 (3) One member shall be appointed who is an oyster pathologist.

40 (4) One member shall be appointed who is a human health expert.

41 (5) One member shall be appointed who is a water quality expert with
42 particular knowledge of oyster habitats.

43 (6) Two members shall be appointed as at-large members.

1 (c) The Secretary may remove any member of the Council for misfeasance,
2 malfeasance, or nonfeasance. A member who fails to attend three consecutive meetings
3 of the Council shall cease to be a member of the Council.

4 (d) The Secretary shall designate one member of the Council to serve as Chair.
5 The Council shall meet upon the call of the Chair. A majority of the Council shall
6 constitute a quorum for the transaction of business.

7 (e) Any person who is a member of the Council may hold membership
8 concurrently with and in addition to any other elective or appointive office the person is
9 permitted to hold under G.S. 128-1.1.

10 (f) Members of the Council who are not State employees shall receive per
11 diem and necessary travel and subsistence expenses in accordance with the provisions
12 of G.S. 138-5.

13 (g) All clerical and other services required by the Council shall be supplied
14 by the Department of Environment, Health, and Natural Resources.

15 (h) The Council shall report to the Secretary of Environment, Health, and
16 Natural Resources by January 1, 1995, its recommendations regarding regulatory and
17 other proposals to improve the regulation and rehabilitation of the oyster resources of
18 the State.

19 (i) There is appropriated from the General Fund to the Department of
20 Environment, Health, and Natural Resources the sum of fifteen thousand dollars
21 (\$15,000) for the 1993-94 fiscal year and the sum of fifteen thousand dollars (\$15,000)
22 for the 1994-95 fiscal year to implement this section.

23 Sec. 3. There is appropriated from the General Fund to the Department of
24 Environment, Health, and Natural Resources the sum of one million dollars
25 (\$1,000,000) for the 1993-94 fiscal year to provide capital funds for the construction of
26 an oyster research hatchery.

27 Sec. 4. There is appropriated from the General Fund to the Department of
28 Environment, Health, and Natural Resources the sum of one million dollars
29 (\$1,000,000) for the 1993-94 fiscal year and the sum of one million dollars (\$1,000,000)
30 for the 1994-95 fiscal year to support and expand oyster programs.

31 Sec. 5. There is appropriated from the General Fund to the Department of
32 Environment, Health, and Natural Resources the sum of ninety thousand dollars
33 (\$90,000) for the 1993-94 fiscal year and the sum of ninety thousand dollars (\$90,000)
34 for the 1994-95 fiscal year to enable the Department to do the North Carolina
35 Environmental Index. The funds shall be used to support one staff person and
36 computers needed to do the report and to cover the cost of printing the report.

37 Sec. 6. There is appropriated from the General Fund to the Department of
38 Environment, Health, and Natural Resources the sum of one hundred thousand dollars
39 (\$100,000) for the 1993-94 fiscal year for the Governor's Blue Ribbon Commission on
40 the twentieth anniversary of the Coastal Management Program, provided these funds are
41 matched on the basis of two dollars (\$2.00) of non-State funds for every one dollar
42 (\$1.00) of State funds, to be used to provide staff and materials in the Division of
43 Coastal Management to coordinate the year-long efforts of the volunteer Commission.

- 1 The purpose of the Commission is to manage a year-long comprehensive study of the
- 2 successes and failures of the 20 years of the Coastal Area Management Act (CAMA).
- 3 Sec. 7. This act becomes effective July 1, 1993.