

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 244

Short Title: GPAC/Transfer Marine Affairs to DEHNR.

(Public)

Sponsors: Senator Martin of Guilford.

Referred to: Government Performance Audit.

February 18, 1993

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GOVERNMENT
2 PERFORMANCE AUDIT COMMITTEE TO TRANSFER THE OFFICE OF
3 MARINE AFFAIRS' AQUARIUM FUNCTION FROM THE DEPARTMENT OF
4 ADMINISTRATION TO THE DEPARTMENT OF ENVIRONMENT, HEALTH,
5 AND NATURAL RESOURCES, TO ELIMINATE THE POLICY FUNCTION OF
6 THE OFFICE OF MARINE AFFAIRS, AND TO ELIMINATE SIX POSITIONS
7 THAT ARE NOW IN THE OFFICE OF MARINE AFFAIRS.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. The General Assembly makes the following findings:

- 11 (1) The Office of Marine Affairs, Department of Administration operates
12 the State's three aquariums and advises the Secretary of Administration
13 and the Governor on ocean policy.
14 (2) The Department of Administration provides most of the State's general
15 administrative services. An internal organizational unit should be
16 included within the Department of Administration only if the
17 organizational unit (i) provides a service to other State agencies and
18 does not have program responsibilities, (ii) has attributes that make
19 central provision the most economical way to deliver first-rate
20 management services, and (iii) has little policy implication.
21 (3) The Office of Marine Affairs does not provide administrative services
22 to State agencies, but does have both program and policy
23 responsibilities.

1 (4) The Department of Environment, Health, and Natural Resources
2 operates and maintains the State's zoological park, whose functions are
3 similar to those of the aquarium. In addition, both the Department of
4 Environment, Health, and Natural Resources and the Office of Marine
5 Affairs advise the Governor on environmental policy matters which
6 can result in uncoordinated and inconsistent policy direction among
7 State environmental programs. Only one department should be
8 responsible for all environment-related functions.

9 (5) To improve efficiency, eliminate the fragmentation of the State's
10 marine policy function, and achieve a savings for the State by
11 eliminating unnecessary administrative structures, the aquarium
12 function of the Office of Marine Affairs should be transferred to the
13 Department of Environment, Health, and Natural Resources; the policy
14 function of the Office of Marine Affairs should be eliminated, and six
15 positions within the Office of Marine Affairs should be eliminated.

16 Sec. 2. G.S. 143B-279.3 reads as rewritten:

17 **"§ 143B-279.3. Department of Environment, Health, and Natural Resources –**
18 **structure.**

19 (a) All functions, powers, duties, and obligations heretofore vested in the
20 following subunits of the following departments are hereby transferred to and vested in
21 the Department of Environment, Health, and Natural Resources by a Type I transfer, as
22 defined in G.S. 143A-6:

- 23 (1) Radiation Protection Section, Division of Facility Services,
24 Department of Human Resources.
- 25 (2) Division of Health Services, Department of Human Resources.
- 26 (3) State Center for Health Statistics, Department of Human Resources.
- 27 (4) Coastal Management Division, ~~Department of Natural Resources and~~
28 ~~Community Development.~~ Department of Environment, Health, and
29 Natural Resources.
- 30 (5) Environmental Management Division, ~~Department of Natural Resources~~
31 ~~and Community Development.~~ Department of Environment, Health, and
32 Natural Resources.
- 33 (6) Forest Resources Division, ~~Department of Natural Resources and~~
34 ~~Community Development.~~ Department of Environment, Health, and
35 Natural Resources.
- 36 (7) Land Resources Division, ~~Department of Natural Resources and~~
37 ~~Community Development.~~ Department of Environment, Health, and
38 Natural Resources.
- 39 (8) Marine Fisheries Division, ~~Department of Natural Resources and~~
40 ~~Community Development.~~ Department of Environment, Health, and
41 Natural Resources.
- 42 (9) Parks and Recreation Division, ~~Department of Natural Resources and~~
43 ~~Community Development.~~ Department of Environment, Health, and
44 Natural Resources.

- 1 (10) Soil and Water Conservation Division, ~~Department of Natural Resources~~
2 ~~and Community Development.~~ Department of Environment, Health, and
3 Natural Resources.
- 4 (11) Water Resources Division, ~~Department of Natural Resources and~~
5 ~~Community Development.~~ Department of Environment, Health, and
6 Natural Resources.
- 7 (12) North Carolina Zoological Park, ~~Department of Natural Resources and~~
8 ~~Community Development.~~ Department of Environment, Health, and
9 Natural Resources.
- 10 (13) Albemarle-Pamlico Study.
- 11 (14) Office of Marine Affairs, Department of Administration.
- 12 (b) All functions, powers, duties, and obligations heretofore vested in the
13 following commissions, boards, councils, and committees of the following departments
14 are hereby transferred to and vested in the Department of Environment, Health, and
15 Natural Resources by a Type II transfer, as defined in G.S. 143A-6:
- 16 (1) Governor's Waste Management Board, Department of Human
17 Resources.
- 18 (2) Radiation Protection Commission, Department of Human Resources.
- 19 (3) Commission for Health Services, Department of Human Resources.
- 20 (4) Water Treatment Facility Operators Board of Certification,
21 Department of Human Resources.
- 22 (5) Council on Sickle Cell Syndrome, Department of Human Resources.
- 23 (6) Perinatal Health Care Programs Advisory Council, Department of
24 Human Resources.
- 25 (7) Governor's Council on Physical Fitness and Health, Department of
26 Human Resources.
- 27 (8) Commission of Anatomy, Department of Human Resources.
- 28 (9) Coastal Resources Commission, ~~Department of Natural Resources and~~
29 ~~Community Development.~~ Department of Environment, Health, and
30 Natural Resources.
- 31 (10) Environmental Management Commission, ~~Department of Natural~~
32 ~~Resources and Community Development.~~ Department of Environment,
33 Health, and Natural Resources.
- 34 (11) Air Quality Council, ~~Department of Natural Resources and Community~~
35 ~~Development.~~ Department of Environment, Health, and Natural
36 Resources.
- 37 (12) Wastewater Treatment Plant Operators Certification Commission,
38 ~~Department of Natural Resources and Community Development.~~
39 Department of Environment, Health, and Natural Resources.
- 40 (13) Forestry Council, ~~Department of Natural Resources and Community~~
41 ~~Development.~~ Department of Environment, Health, and Natural
42 Resources.

- 1 (14) ~~North Carolina Mining Commission, Department of Natural Resources~~
2 ~~and Community Development. Department of Environment, Health, and~~
3 ~~Natural Resources.~~
- 4 (15) ~~Advisory Committee on Land Records, Department of Natural Resources~~
5 ~~and Community Development. Department of Environment, Health, and~~
6 ~~Natural Resources.~~
- 7 (16) ~~Marine Fisheries Commission, Department of Natural Resources and~~
8 ~~Community Development. Department of Environment, Health, and~~
9 ~~Natural Resources.~~
- 10 (17) ~~Parks and Recreation Council, Department of Natural Resources and~~
11 ~~Community Development. Department of Environment, Health, and~~
12 ~~Natural Resources.~~
- 13 (18) ~~Board of Trustees of the Recreation and Natural Heritage Trust Fund,~~
14 ~~Department of Natural Resources and Community Development.~~
15 ~~Department of Environment, Health, and Natural Resources.~~
- 16 (19) ~~North Carolina Trails Committee, Department of Natural Resources and~~
17 ~~Community Development. Department of Environment, Health, and~~
18 ~~Natural Resources.~~
- 19 (20) ~~Sedimentation Control Commission, Department of Natural Resources~~
20 ~~and Community Development. Department of Environment, Health, and~~
21 ~~Natural Resources.~~
- 22 (21) ~~State Soil and Water Conservation Commission, Department of Natural~~
23 ~~Resources and Community Development. Department of Environment,~~
24 ~~Health, and Natural Resources.~~
- 25 (22) ~~North Carolina Zoological Park Council, Department of Natural~~
26 ~~Resources and Community Development. Department of Environment,~~
27 ~~Health, and Natural Resources.~~
- 28 (23) North Carolina Aquariums Commission, Department of
29 Administration.
- 30 (c) (1) There is hereby created a division within the environmental
31 area of the Department of Environment, Health, and Natural
32 Resources to be named the Division of Radiation Protection. All
33 functions, powers, duties, and obligations of the Radiation Protection
34 Section of the Division of Facility Services of the Department of
35 Human Resources are transferred in their entirety to the Radiation
36 Protection Division of the Department of Environment, Health, and
37 Natural Resources.
- 38 (2) There is hereby created a division within the environmental area of the
39 Department of Environment, Health, and Natural Resources to be
40 named the Division of Solid Waste Management. All functions,
41 powers, duties, and obligations of the Solid Waste Management
42 Section of the Division of Health Services of the Department of
43 Human Resources are transferred in their entirety to the Division of

1 Solid Waste Management of the Department of Environment, Health,
2 and Natural Resources.

3 (d) The Department of Environment, Health, and Natural Resources is vested with all
4 other functions, powers, duties, and obligations as are conferred by the Constitution and
5 laws of this State."

6 Sec. 3. G.S. 143B-279.2 is amended by adding a new subdivision to read:

7 "(1a) To administer the State Outer Continental Shelf (OCS) Task Force and
8 coordinate State participation activities in the federal outer continental
9 shelf resource recovery programs as provided under the OCS Lands
10 Act Amendments of 1978 (43 USC §§ 1801 et seq.) and the OCS
11 Lands Act Amendments of 1986 (43 USC §§ 1331 et seq.)."

12 Sec. 4. Part 8A of Article 9 of Chapter 143B of the General Statutes, G.S.
13 143B-390.2 through G.S. 143B-390.4, is recodified as Part 5B of Article 7 of Chapter
14 143B of the General Statutes, G.S. 143B-289.20 through G.S. 143B-289.22.

15 Sec. 5. G.S. 143B-390.2, as recodified as G.S. 143B-289.20 by Section 3 of
16 this act, reads as rewritten:

17 "**§ 143B-289.20. Office of Marine Affairs – organization; powers and duties.**

18 (a) The Office shall be organized as prescribed by the Secretary of ~~Administration~~
19 the Department of Environment, Health, and Natural Resources and exercise the
20 following powers and duties:

21 (1) Repealed by Session Laws 1991, c. 320, s. 3.

22 (1a) To establish and maintain the North Carolina Aquariums;

23 (1b) To administer the operations of the North Carolina Aquariums, such
24 administrative duties to include, but not be limited to the following:

25 a. Adopt goals and objectives for the Aquariums and review and
26 revise these goals and objectives periodically;

27 b. Review and approve requests for use of the Aquarium facilities
28 and advise the Secretary of ~~Administration~~ the Department of
29 Environment, Health, and Natural Resources on the most
30 appropriate use consistent with the goals and objectives of the
31 Aquariums;

32 c. Continually review and evaluate the types of projects and
33 programs being carried out in the Aquarium facilities and
34 determine if the operation of the facilities is in compliance with
35 the established goals and objectives;

36 d. Recommend to the Secretary of ~~Administration~~ the Department
37 of Environment, Health, and Natural Resources any policies
38 and procedures needed to assure effective staff performance and
39 proper liaison among Aquarium facilities in carrying out the
40 overall purposes of the Aquarium programs;

41 e. Review Aquarium budget submissions to the Secretary of
42 ~~Administration~~ the Department of Environment, Health, and
43 Natural Resources;

- 1 f. Recruit and recommend to the Secretary of ~~Administration~~ the
 2 Department of Environment, Health, and Natural Resources
 3 candidates for the positions of directors of the North Carolina
 4 Aquariums; and
- 5 g. Create local advisory committees in accordance with the
 6 provisions of G.S. 143B-390.4.
- 7 (2) ~~Provide staff to the North Carolina Council on Ocean Affairs in~~
 8 ~~furtherance of the Council's statutory powers and duties;~~
- 9 (3) ~~Advise the Secretary of Administration regarding the analysis,~~
 10 ~~planning and implementation of current and future State and federal~~
 11 ~~goals, policies and programs relating to the ocean and marine~~
 12 ~~resources of North Carolina, such duties to include, but not be limited~~
 13 ~~to, giving advice regarding:~~
- 14 a. ~~Providing recommendations to other educational, informational~~
 15 ~~and policy-making bodies regarding marine and ocean resource~~
 16 ~~issues;~~
- 17 b. ~~Administering* the State Outer Continental Shelf (OCS) Task~~
 18 ~~Force and coordinate State participation activities in the federal~~
 19 ~~outer continental shelf resource recovery programs as provided~~
 20 ~~under the OCS Lands Act Amendments of 1978 (43 USC §§~~
 21 ~~1801 et seq.) and the OCS Lands Act Amendments of 1986 (43~~
 22 ~~USC §§ 1331 et seq.); and~~
- 23 e. ~~Coordinating necessary legal or technical research to carry out~~
 24 ~~the duties set forth in this subdivision.~~
- 25 (4) to (6) Repealed by Session Laws 1991, c. 320, s. 3.
- 26 (7) Assume any other powers and duties assigned to it by the Secretary.
- 27 (b) The Secretary may adopt any rules and procedures necessary to implement
 28 this section."

29 Sec. 6. G.S. 143B-390.4, as recodified as G.S. 143B-89.22 by Section 3 of
 30 this act, reads as rewritten:

31 "**§ 143B-289.22. Local advisory committees; duties; membership.**

32 Local advisory committees created pursuant to ~~G.S. 143B-390.2(a)(1b)~~ G.S. 143B-
 33 289.20(a)(1b) shall assist each North Carolina Aquarium in its efforts to establish
 34 projects and programs and to assure adequate citizen-consumer input into those efforts.
 35 Members of these committees shall be appointed by the Secretary of ~~Administration~~ the
 36 Department of Environment, Health, and Natural Resources for three-year terms from
 37 nominations made by the Director of the Office of Marine Affairs. Each committee
 38 shall select one of its members to serve as chairperson. Members of the committees
 39 shall serve without compensation for services or expenses."

40 Sec. 7. Part 8B of Article 9 of Chapter 143B of the General Statutes is
 41 repealed.

42 Sec. 8. Part 8C of Article 9 of Chapter 143B of the General Statutes, G.S.
 43 143B-390.15 through G.S. 143B-390.16, is recodified as Part 28 of Article 7 of Chapter
 44 143B of the General Statutes, G.S. 143B-344.16 through G.S. 143B-344.17.

1 Sec. 9. G.S. 143B-390.16, as recodified as G.S. 143B-344.17 by Section 6 of
2 this act, reads as rewritten:

3 **"§ 143B-344.17. North Carolina Aquariums Commission – organization, powers,
4 and duties.**

5 (a) The Commission shall consist of 12 members appointed as follows:

6 (1) Four members appointed by the Governor, including one member
7 designated by the Governor to serve as chair of the Commission and
8 one member appointed upon recommendation of the North Carolina
9 Aquarium Society, Inc., who resides in one of the counties where the
10 North Carolina Aquariums are located: Carteret, Dare, and New
11 Hanover,

12 (2) Four members appointed by the General Assembly upon the
13 recommendation of the Speaker of the House of Representatives in
14 accordance with G.S. 120-121, including one member appointed upon
15 the recommendation of the North Carolina Aquarium Society, Inc.,
16 who resides in another of the counties where the North Carolina
17 Aquariums are located: Carteret, Dare, and New Hanover,

18 (3) Four members appointed by the General Assembly upon the
19 recommendation of the President Pro Tempore of the Senate in
20 accordance with G.S. 120-121, including one member appointed upon
21 the recommendation of the North Carolina Aquarium Society, Inc.,
22 who resides in another of the counties where the North Carolina
23 Aquariums are located: Carteret, Dare, and New Hanover.

24 (b) Commission members shall serve for terms of four years, beginning July 1,
25 1992, and may be removed at any time by the appointing authority. If a vacancy on the
26 Commission occurs, the appointing authority shall appoint a replacement to serve for
27 the unexpired term.

28 (c) The Commission shall meet upon the call of the chair.

29 (d) The Secretary of ~~Administration~~ the Department of Environment, Health, and
30 Natural Resources shall provide staff support for Commission activities and travel
31 reimbursement for Commission members.

32 (e) The Commission may recommend a schedule of uniform fees for the North
33 Carolina Aquariums to the Secretary of the Department of ~~Administration~~ Environment,
34 Health, and Natural Resources who may adopt the schedule. The schedule may be
35 revised from time to time by the same procedure.

36 (f) The North Carolina Special Aquariums Fund, hereafter 'Fund', is hereby
37 created, and shall be a special and nonreverting fund. The Fund shall be used only for
38 repair, maintenance, and educational exhibit construction at existing aquariums. The
39 Fund may also be used to match private funds that are raised for these purposes.

40 (g) All entrance fee receipts shall be credited to the Fund. The Secretary of
41 ~~Administration~~ the Department of Environment, Health, and Natural Resources may
42 expend monies from the Fund only upon the authorization of the General Assembly."

43 Sec. 10. The Department of Environment, Health, and Natural Resources
44 shall eliminate six positions in the Office of Marine Affairs that handle policy and

1 administrative matters, thus saving the State approximately two hundred thousand
2 dollars (\$200,000) annually.

3 Sec. 11. The base budget of the Department of Administration is reduced by
4 two million two hundred seventy-nine thousand seven hundred seventy-seven dollars
5 (\$2,279,777) due to the transfer of the aquarium function mandated by this act. The
6 base budget of the Department of Environment, Health, and Natural Resources is
7 increased by two million seventy-nine thousand seven hundred seventy-seven dollars
8 (\$2,079,777).

9 Sec. 12. This act becomes effective July 1, 1993.