

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1351

Agriculture/Environment/Natural Resources Committee Substitute Adopted 6/6/96

Short Title: Develop Riparian Buffers.

(Public)

Sponsors:

Referred to: Appropriations.

May 27, 1996

A BILL TO BE ENTITLED

AN ACT TO DEVELOP RIPARIAN BUFFERS TO PROTECT WATER QUALITY
AND NATURAL RESOURCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-214.7 reads as rewritten:

"§ 143-214.7. Stormwater runoff rules and programs.

(a) Policy, Purpose and Intent. – The Commission shall undertake a continuing planning process to develop and adopt a statewide plan with regard to establishing and enforcing stormwater rules for the purpose of protecting the surface waters of the State. It is the purpose and intent of this section that, in developing stormwater runoff rules and programs, the Commission may utilize stormwater rules established by the Commission to protect classified shellfish waters, water supply watersheds, and outstanding resource waters; and to control stormwater runoff disposal in coastal counties and other nonpoint sources. Further, it is the intent of this section that the Commission phase in the stormwater rules on a priority basis for all sources of pollution to the water. The plan shall be applied evenhandedly throughout the State to address the State's water quality needs. The Commission shall continually monitor water quality in the State and shall revise stormwater runoff rules as necessary to protect water quality. As necessary, the stormwater rules shall be modified to comply with federal regulations.

1 (b) The Commission shall be authorized and directed to implement stormwater
2 runoff rules and programs for point and nonpoint sources on a phased-in statewide basis.
3 The Commission shall consider standards and best management practices for the
4 protection of the State's water resources in the following order of priority:

- 5 (1) Classified shellfish waters;
- 6 (2) Water supply watersheds;
- 7 (3) Outstanding resource waters;
- 8 (4) High quality waters; and
- 9 (5) Other waters where the Commission finds control of stormwater is
10 needed to meet the purposes of this Article. Provided however, that
11 prior to implementation of rules under this subdivision (5), the
12 Commission shall consult with the Environmental Review Commission.

13 (c) Chapter 150B of the General Statutes governs adoption of rules by the
14 Commission.

15 (d) For purposes of this subsection, 'nutrient-sensitive waters (NSW)' means any of
16 the waters of the State that have been classified as nutrient sensitive by the Commission
17 in rules adopted pursuant to G.S. 143-214.1. The Commission shall adopt rules to
18 establish a matrix of minimum forested or equivalent riparian buffers to protect water
19 quality and to restore impaired water quality in nutrient-sensitive waters. Buffers may be
20 used to filter pollutants such as sediment, nutrients, and pesticides in surface water runoff
21 and subsurface flows. To the maximum extent practical, existing buffers should be
22 maintained, and where buffers do not exist, a proactive program to restore those buffers
23 should be initiated. In developing these rules, the Commission shall provide a procedure
24 whereby a landowner may seek a determination on a site-specific basis that alternative
25 buffers or other appropriate water quality management measures will provide an
26 equivalent or greater protection and restoration of water quality than the buffer that
27 would be required by rule. In developing the matrix of buffers and site-specific
28 alternatives, the Commission shall incorporate regional variations in soil types and in
29 topography and shall be subject to the following considerations:

- 30 (1) Appropriate riparian buffers may be required on both sides of public
31 surface water bodies.
- 32 (2) Riparian buffers may be modified based on impacts on existing
33 development, crop allotments, maintenance of drainage features and
34 diminimus activities which would not otherwise compromise the
35 integrity of the water quality, and may include alternatives such as
36 implementation of best management practices or nutrient management
37 plans designed to reduce water pollution and protect water quality.
- 38 (3) Riparian buffers shall not be required along ditches which do not
39 discharge or overflow into State waters designated as solid blue lines on
40 U.S. Geological Survey Topographical Maps.
- 41 (4) Regional alternatives to the buffer requirement may be developed in
42 cooperation with the Directors of the Division of Environmental
43 Management and the Division of Soil and Water Conservation of the

1 Department, the Cooperative Extension Service, and the Natural
2 Resources Conservation Service to provide options for landowners in
3 lieu of or in conjunction with site-specific riparian buffers."

4 Sec. 2. A unit of local government may submit a written request to the
5 Department to implement and manage the riparian buffer requirements within their
6 jurisdiction subject to terms provided by the Department.

7 Sec. 3. There is appropriated from the General Fund to the Board of
8 Governors of The University of North Carolina the sum of twenty-five thousand dollars
9 (\$25,000) for the Sea Grant College Program of North Carolina State University to be
10 used as matching funds to develop a matrix to determine appropriate buffers to protect
11 water quality.

12 Sec. 4. The Commission may adopt temporary rules to implement the
13 provisions of this act.

14 Sec. 5. Section 3 of this act becomes effective only if the General Assembly:

15 (1) Adjusts the General Fund availability for the 1996-97 fiscal year in the
16 Current Operations Appropriations Act of 1996 by (i) the estimated
17 earmarking amount provided for in Section 3 in this act and (ii) the
18 estimated reduction in General Fund revenue provided for in Sections 4
19 and 5 of this act; or

20 (2) Adjourns sine die without enacting the Current Operations
21 Appropriations Act of 1996.

22 Nothing in this act shall be construed to obligate the General Assembly to
23 provide funds to implement the provisions of this act. The remainder of this act is
24 effective upon ratification.