

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1344

Short Title: Developments of Regional Impact.

(Public)

Sponsors: Representative Hackney.

Referred to: Environment and Natural Resources.

April 12, 2001

A BILL TO BE ENTITLED
AN ACT REGULATING DEVELOPMENTS OF REGIONAL IMPACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 153A of the General Statutes is amended by adding a new Article to read:

"Article 19A.

"Developments of Regional Impact.

"§ 153A-399. Statement of purpose.

The purpose of this Article is to ensure that, for developments of regional impact, regional and extrajurisdictional impacts and interest are identified and addressed by:

- (1) Providing an intergovernmental review procedure that allows State, regional, and local agencies whose plans, programs, and policies affect or are affected by developments to participate in decision making with regard to those developments.
- (2) Ensuring public participation in the process of reviewing development proposals.
- (3) Requiring agencies responsible for approving such developments to make a record of their decision based on an analysis of the regional or extrajurisdictional impacts or consequences.
- (4) Ensuring that developments with extrajurisdictional impacts be reviewed according to policies concerning urban sprawl; environmental quality; safety from impacts of natural hazards; balancing jobs and housing; housing affordability; and provision of infrastructure.

"§ 153A-399.1. Definitions.

The following definitions shall apply in this Article:

- (1) Development. — Any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or

1 operation; any material change in the use or appearance of any
2 structure or in the land itself; the division of land into parcels; any
3 change in the intensity or use of land, such as an increase in the
4 number of dwelling units in a structure or a change to a commercial or
5 industrial use from a less intensive use; any activity that alters a shore,
6 beach, seacoast, river, stream, lake, pond, canal, marsh, dune area,
7 woodlands, wetland, endangered species habitat, aquifer, or other
8 resource area, including coastal construction or other activity.

9 (2) Development of regional impact (DRI). – Any development that,
10 because of its character, magnitude, or location, would have
11 substantial effect upon the health, safety, or welfare of more than one
12 county or city.

13 (3) Development permit. – Any building permit, zoning permit, plat
14 approval, rezoning, certification, variance, or other action having the
15 effect of allowing development as defined in this section.

16 (4) Host local government. – The local government in which the land on
17 which a proposed development of regional impact is located and that
18 would have the authority to exercise final development approval if the
19 proposed development were not a development of regional impact.

20 (5) Interested agency or entity. – Any State, regional, or local government
21 or agency whose jurisdiction lies entirely or partially within the
22 geographic area encompassed by the proposed development of
23 regional impact and whose programs and policies would be affected by
24 the proposed development.

25 (6) Primary reviewing agency. – The regional planning agency or host
26 local government that has the authority under this Article to review a
27 development of regional impact, hold public hearings on the proposed
28 development, coordinate the involvement of other interested persons,
29 agencies, or entities that are participants in the review, and issue a
30 decision whether to approve, approve with conditions, or deny any
31 application for a development of regional impact.

32 **§ 153A-399.2. Standards and criteria applicable to DRIs.**

33 In adopting standards and criteria under this Article, the host local government shall
34 include the following factors in its consideration:

35 (1) The impact of the proposed development on the environment and
36 natural resources of the State or region, including, but not limited to,
37 air, ground, surface water supply and quality, endangered or threatened
38 species habitats, open space, agriculture, and aquaculture.

39 (2) The impact of the proposed development on the built environment of
40 the State or region, including, but not limited to, historical, cultural,
41 architectural, archaeological, and recreational resources.

42 (3) The impact of the proposed development on the existing capital
43 facilities of affected local governments and special districts and the

1 extent to which new capital facilities will be required to serve the
2 proposed development.

3 (4) The amount of vehicular and pedestrian traffic likely to be generated.

4 (5) The number of persons likely to be residents, employees, or otherwise
5 present on the site.

6 (6) The size of the proposed development site.

7 (7) The size of all structures to be constructed on the site.

8 (8) The likelihood that the proposed development will stimulate additional
9 development in the surrounding area.

10 (9) The unique qualities of the site.

11 (10) The likelihood that the proposed development will be affected by or
12 will affect natural hazards.

13 (11) The extent to which the proposed development would create an
14 additional demand for energy.

15 (12) Other factors of State, regional, or local concern.

16 **"§ 153A-399.3. Determination of DRI status.**

17 Using the standards and criteria established by the host local government pursuant to
18 G.S. 153A-399.2, the host local government shall determine whether a proposed
19 development is a development of regional impact (DRI) and will be subject to DRI
20 review.

21 **"§ 153A-399.4. Submittal of DRI application.**

22 (a) After the host local government has determined that a proposed development
23 is a development of regional impact, the developer shall file an application with the host
24 local government for development approval as a development of regional impact. The
25 DRI application shall be in addition to any other applications for development approval
26 required by the host local government's own land development regulations.

27 (b) Upon receipt of an application for a proposed DRI, the local host government
28 shall determine whether additional information is necessary to assess the impact of the
29 proposed development and may request such information from the developer.

30 (c) When a DRI application is filed with a host local government, the host local
31 government shall also send copies of the application to other interested agencies or
32 entities.

33 (d) The host local government may request the assistance of the regional
34 planning agency in its review of a DRI application.

35 (e) A developer who is required to file for a permit under State environmental
36 protection laws may elect to undergo a joint application and review procedure with the
37 host local government and the State.

38 **"§ 153A-399.5. Review and recommendation of interested agencies and entities.**

39 Any interested agency or entity may review the application for a proposed DRI
40 using the same standards and criteria established in G.S. 153A-399.2 and may submit a
41 written report to the primary reviewing agency containing its concerns and
42 recommendations. Although this report shall be advisory only, it must be considered by
43 the primary reviewing agency in its review of the DRI application and acknowledged in
44 its final decision issued pursuant to G.S. 153A-399.7.

1 **"§ 153A-399.6. Notice and public hearings.**

2 (a) The primary reviewing agency shall hold a public hearing on the application
3 for a DRI approval. The hearing shall be held at a public facility located within the
4 boundaries of the host local government.

5 (b) At least 20 days before the date of the public hearing, the [primary reviewing
6 agency] shall provide written notice of the proposed DRI by publication in a newspaper
7 that circulates in the area proposed for development to all interested agencies or entities,
8 and to any interested person who, in writing, requests to be provided notice of proposed
9 DRI.

10 (c) The notice of each public hearing shall:

11 (1) Contain a description of the total area and boundaries of the proposed
12 DRI and a general statement of foreseeable impacts on environmental
13 or natural resources, historic and archaeological resources, and/or
14 major public facilities or public investments.

15 (2) Specify the officers or employees of the primary reviewing agency
16 from whom additional information may be obtained and to whom
17 written comments may be directed.

18 (3) Specify a time and place where a copy of the DRI application may be
19 inspected before the public hearing.

20 (4) Specify the date, time, place, and method for presentation of views by
21 interested persons at the public hearing.

22 (d) The primary viewing agency shall afford any interested person, agency, or
23 entity the opportunity to submit written recommendations and comments on the
24 proposed DRI, copies of which shall be kept on file and made available for public
25 inspection.

26 (e) Public hearings shall be conducted in the following manner:

27 (1) The hearings shall be chaired by the chief executive officer of the
28 primary reviewing agency or his or her designated representative.

29 (2) The hearing shall be on the record, and a transcribed record shall be
30 kept of all comments made at the hearing. A transcribed copy of all
31 comments shall be made available to all interested persons upon
32 request and at actual cost.

33 (3) The form of the hearing(s) may be set by the primary reviewing
34 agency, except that representatives of all opinions regarding the DRI
35 application shall be given an opportunity to make spoken comments.

36 (4) Written comments on the DRI application shall also be received at the
37 hearings and shall become part of the record.

38 (f) To the extent that it is practicable to do so, the chief executive officer of the
39 primary reviewing agency may attempt to reconcile persons, agencies, or entities with
40 opposing viewpoints through informal conflict resolution procedures.

41 **"§ 153A-399.7. Review of DRI application.**

42 (a) The primary reviewing agency shall review proposed DRIs in accordance
43 with the following criteria:

- 1 (1) Whether the proposed DRI is consistent with this Article, regional
2 comprehensive plan, plans of any interested agencies or entities, and
3 comprehensive plan and land development regulations of the host local
4 government.
- 5 (2) Whether the proposed DRI will have a favorable or adverse impact on:
6 a. The environmental, agricultural, historical, and/or cultural
7 resources of the region and local government.
8 b. Air quality, water quality, erosion, flooding, and safety issues
9 related to natural hazards.
10 c. The regional and local economy.
11 d. Existing public facilities, including, but not limited to, roads,
12 sewers, sewage treatment plants, stormwater management
13 facilities, water supply and treatment plants, and educational
14 facilities, as well as those facilities that are planned for
15 construction in the succeeding five years.
16 e. The ability of the people to find adequate housing that is
17 reasonably accessible to places of employment.
18 f. The supply and distribution of low- and moderate-income
19 housing for the region and local government.
20 g. Historical settlement patterns of the region and locality,
21 including population, density, and development characteristics
22 (e.g., urban, suburban, or rural).
23 h. Any area of critical State concern.
- 24 (3) Whether the natural environment, including the potential for natural
25 hazards, would have an adverse effect on the proposed DRI.

26 (b) The primary reviewing agency shall also review and consider any report
27 submitted to it by any other interested person, agency, or entity that contains concerns
28 and recommendations on the impacts of the proposed development and consider
29 possible mitigation alternatives.

30 **"§ 153A-399.8. Issuance of decision.**

31 (a) Within 30 days after the public hearing, the primary reviewing agency shall
32 render a written decision containing findings and approving, approving with conditions,
33 or denying the development permit for the proposed DRI. Such 30-day period may be
34 extended by mutual agreement of the primary reviewing agency and the developer.

35 (b) In its decision to approve a development permit for a proposed DRI, the
36 primary reviewing agency may specify conditions to be met by the developer for the
37 purpose of minimizing any negative economic, social, and/or environmental impacts
38 and may also require the developer to modify a project to specifically address the
39 concerns and recommendations contained in reports received from other interested
40 agencies and entities pursuant to G.S. 153A-399.5.

41 (c) The decision of the primary reviewing agency shall also acknowledge any
42 concerns and recommendations contained in reports received from any interested
43 agency or entity that were not incorporated in the primary reviewing agency's final
44 decision.

1 (d) The primary reviewing agency shall not approve a DRI application that does
2 not make adequate and timely provision for those public facilities needed to
3 accommodate the impacts of the proposed development.

4 (e) The primary reviewing agency shall file its written decisions with the clerk of
5 the host local government or secretary of the regional planning agency and shall provide
6 copies to the developer.

7 (f) Within 14 days of rendering its decision, the primary reviewing agency shall
8 publish a notice containing a summary of its decision in a newspaper that circulates in
9 the area affected by the decision.

10 **"§ 153A-399.9. Amendments.**

11 Any proposed change to a previously approved DRI that, in the opinion of the
12 primary reviewing agency creates, or has a likelihood of creating, an additional regional
13 impact or a type of regional impact not previously considered and reviewed by the
14 primary reviewing agency shall constitute substantial deviation from the approved DRI
15 and shall subject the development to repeat the entire DRI approval process.

16 **"§ 153A-399.10. Enforcement.**

17 The primary reviewing agency may enforce any decision, condition, and/or
18 restriction it may impose upon a DRI by recording a certificate of noncompliance with
19 the register of deeds of the county or counties in which the development is located. The
20 primary reviewing agency shall commence such other actions or proceedings as it may
21 deem necessary to enforce its decisions, conditions, and/or restrictions.

22 **"§ 153A-399.11. Appeals.**

23 Appeals of decisions by the primary reviewing agency to designate a proposed
24 development as a DRI or to approve, reject, or approve with conditions a development
25 that has been designated as a DRI shall proceed according to the provisions of Chapter
26 150B of the General Statutes."

27 **SECTION 2.** This act is effective when it becomes law.