

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 925

Short Title: Oyster Restoration & Protection Act.

(Public)

Sponsors: Senator Clodfelter.

Referred to: Agriculture/Environment/Natural Resources.

March 24, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ENHANCE THE INFRASTRUCTURE THAT SUPPORTS OYSTER
2 RESTORATION ACTIVITIES, TO PROTECT AND RESTORE WATER
3 QUALITY AND HABITAT IN PRIME OYSTER GROWING AREAS, AND TO
4 APPROPRIATE FUNDS TO HELP SUPPORT PROJECTS TO REHABILITATE
5 OYSTER HABITATS AND SANCTUARIES.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** There is appropriated from the General Fund to the
9 Department of Environment and Natural Resources the sum of two hundred thousand
10 dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand
11 dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of
12 Marine Fisheries for the Shellfish Rehabilitation Program. The funds appropriated
13 under this section shall be used to plant an additional 160,000 bushels of cultch material
14 annually, i.e., oyster shell, clamshell or marl.

15 **SECTION 2.** There is appropriated from the General Fund to the
16 Department of Environment and Natural Resources the sum of two hundred thousand
17 dollars (\$200,000) for the 2005-2006 fiscal year and the sum of two hundred thousand
18 dollars (\$200,000) for the 2006-2007 fiscal year to be allocated to the Division of
19 Marine Fisheries to create two oyster sanctuaries per year.

20 **SECTION 3.** There is appropriated from the General Fund to the
21 Department of Environment and Natural Resources the sum of eighty thousand dollars
22 (\$80,000) for the 2005-2006 fiscal year and the sum of eighty thousand dollars
23 (\$80,000) for the 2006-2007 fiscal year to be allocated as follows:

- 24 (1) Of the funds appropriated by this section, the sum of forty-five
25 thousand dollars (\$45,000) shall be used each fiscal year to support a
26 position for an oyster shell recycling coordinator.
- 27 (2) Of the funds appropriated by this section, the sum of thirty-five
28 thousand dollars (\$35,000) shall be used each fiscal year to provide
29 recycling infrastructure.

1 **SECTION 4.** Article 21 of Chapter 143 of the General Statutes is amended
2 by adding a new section to read:

3 **"§ 143-214.7A. Prohibit new or expanded stormwater discharge into prime**
4 **shellfish waters.**

5 (a) Definitions. – The following definitions apply in this section:

6 (1) "Stormwater collection system" means any conduit including, but not
7 limited to, pipes, ditches, swales, drains, canals, gutters, curbs, or
8 impervious surfaces such as roads.

9 (2) "Prime shellfish growing area" includes any shellfish growing area in
10 which all or part of the shellfish growing area is classified as
11 Outstanding Resource Waters by the North Carolina Division of Water
12 Quality. The term also includes, but is not limited to, shellfish growing
13 areas A-2, A-3, B-1, B-7, B-9, C-1, C-2, C-3, D-3, E-4, E-6, F-1, F-2,
14 F-5, F-7, G-3, G-4, and G-7 as delineated by the North Carolina
15 Division of Environmental Health. Additional growing areas may be
16 determined to be prime oyster growing areas through a proclamation
17 by the Director of the Division of Marine Fisheries.

18 (b) Notwithstanding any other provision of law, no new or expanded discharge of
19 stormwater shall be permitted through any stormwater collection system that drains to a
20 prime shellfish growing area or unnamed freshwater tributaries to a prime shellfish
21 growing area, except in the case of a storm exceeding the 10-year/24-hour storm."

22 **SECTION 5.** There is appropriated from the General Fund to the
23 Department of Environment and Natural Resources the sum of two hundred thirty-seven
24 thousand dollars (\$237,000) for the 2005-2006 fiscal year and the sum of two hundred
25 thirty-seven thousand dollars (\$237,000) for the 2006-2007 fiscal year to be allocated to
26 the Division of Environmental Health as follows:

27 (1) Of the funds appropriated by this section, the sum of sixty-nine
28 thousand dollars (\$69,000) shall be used each fiscal year to support a
29 position for a GIS staff person.

30 (2) Of the funds appropriated by this section, the sum of one hundred
31 sixty-eight thousand dollars (\$168,000) shall be used each fiscal year
32 to support three positions for shoreline surveyors to expand the pilot
33 program that examines the sources of pollution that affect shellfish
34 growing areas to all shellfish growing areas in the coastal region.

35 **SECTION 6.** Under the State Revolving Fund (SRF), Congress provides the
36 states with grant funds to establish revolving loan programs to assist in the funding of
37 wastewater treatment facilities and projects associated with estuary and nonpoint source
38 programs. In order to receive funding from the SRF, projects must be included on a
39 priority funding list.

40 Notwithstanding any other provision of law, the installation of stormwater
41 retrofits shall be an equal priority with water and sewer projects under the State
42 Revolving Fund (SRF) and any other grants or loans established under State bond
43 authority through the North Carolina Rural Economic Development Center or other
44 entities. Stormwater retrofits that remove outfalls from Class SA waters shall be given

1 the highest priority in the SRF rating system, subject to approval by the Environmental
2 Protection Agency. As an incentive, State Revolving Fund loans that are made to
3 eligible entities to install stormwater retrofits that remove outfalls from shellfish
4 receiving waters shall also be provided interest free.

5 **SECTION 7.** This act becomes effective July 1, 2005.