

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

**SESSION LAW 2004-117
SENATE BILL 732**

AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO IMPLEMENT A PILOT PROGRAM UNDER WHICH A COUNTY MAY DESIGNATE AN AREA AS A NEW URBAN WATERFRONT UNDER THE COASTAL AREA MANAGEMENT ACT OF 1974.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that:

(1) Development in coastal areas should occur in a manner that will conserve and manage the important natural features of the estuarine and ocean system so as to safeguard and perpetuate their biological, social, aesthetic, and economic values.

(2) New urban waterfront development, which combines residential, commercial, and recreational uses in a publicly accessible, pedestrian-friendly traditional neighborhood community that preserves natural shorelines and other critical areas, has the potential to benefit the environment and quality of life in the area in which the development occurs.

(3) The greatest potential benefit of new urban waterfront development lies in coastal counties that do not border the Atlantic Ocean and that are less densely populated than counties that, because of their proximity to ocean beaches, have experienced greater economic development.

SECTION 2. For purposes of this act:

(1) "Commission" means the Coastal Resources Commission.

(2) "New urban waterfront area" means an area designated for development that includes a mixture of residential and commercial uses, recreational areas, and facilities for governmental or other civic purposes; provides for pedestrian access to residential, commercial, civic and recreational areas; and incorporates open space for recreational and other public purposes.

SECTION 3.(a) The Commission shall implement a pilot program under which a county may designate an area as a new urban waterfront area under the Coastal Area Management Act of 1974. The purpose of the pilot is to determine the water quality and other environmental impacts from a new urban waterfront area development and to evaluate the benefits from the development to the area in which the development is located. To implement the pilot, the Commission shall consider and act on a request from a county to approve an amendment to its land-use plan that designates a new urban waterfront area outside the corporate limits of any municipality. For purposes of the pilot program, a request to approve an amendment to a land-use plan that designates a new urban waterfront area shall be approved by the Commission for only one county. The new urban waterfront area shall be located in a county that does not border the Atlantic Ocean and that has a population density of not more than 150 persons per square mile as determined by the 2000 census by the Bureau of the Census. The new urban waterfront area shall not exceed 500 acres and shall not include more than one mile of natural shoreline. The new urban waterfront area may be located

in an area that drains to existing public trust waters or may be located in an area that drains to an artificially created body of water accessible to the public by navigation from public trust waters. The new urban waterfront area shall not be located in an area that, at the time that the Commission approves the amendment to the county land-use plan that designates the new urban waterfront area, drains directly to waters:

(1) Classified by the Environmental Management Commission as Outstanding Resource Waters, Nutrient Sensitive Waters, High Quality Waters, or SA Waters.

(2) Designated by the Marine Fisheries Commission as primary or secondary nursery areas.

(3) Designated by the Wildlife Resources Commission or the Department of Agriculture and Consumer Services as critical habitat areas.

SECTION 3. (b) A developer, pursuant to the Coastal Area Management Act of 1974 and rules adopted by the Commission to implement the Act, may submit an application for a major development permit for development in a new urban waterfront area. The new urban waterfront area development shall be subject to all of the following:

(1) The development shall be located in a new urban waterfront area designated in a county land-use plan approved by the Commission as provided in subsection (a) of this section.

(2) The new urban waterfront area development shall be accessible to the general public and shall provide for public access to the shoreline consistent with the county's public access plan.

(3) The new urban waterfront area development shall be served by centrally operated water, sewer, and stormwater management systems. Wastewater and stormwater management systems for the new urban waterfront area development shall not discharge directly to estuarine or public trust waters.

(4) The new urban waterfront area development shall comply with all standards adopted by the Commission for development in coastal wetlands, public trust areas, and estuarine waters except as those standards are modified for urban waterfronts in rules adopted by the Commission. Development within a designated new urban waterfront area shall be authorized to the same extent and shall be subject to the same use standards and permitting requirements as development within areas designated as urban waterfronts under the rules of the Commission, except that the new urban waterfront area development shall comply with the 30-foot buffer requirement set out in 15A NCAC 7H.0209(d)(10) along all natural shorelines.

(5) The developer of the new urban waterfront area development shall submit an application for a National Pollutant Discharge Elimination System (NPDES) permit for stormwater management and shall obtain the permit prior to commencement of any construction of a new urban waterfront area development. The National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall address the six minimum control measures required by 40 Code of Federal Regulations § 122.34(b) (1 July 2003 Edition). The National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall apply to the new urban waterfront area and to all other areas within the same common plan of development. The application for the National Pollutant Discharge Elimination System (NPDES) permit for stormwater management shall be reviewed by two independent experts approved by the Department. This review shall be conducted at the

expense of the applicant. The permit shall require that the permittee establish and maintain water quality monitoring systems and conduct water quality monitoring at the locations and in the detail and frequency specified by the permit. The permittee shall submit the water quality samples collected pursuant to the permit to a laboratory certified by the Division of Water Quality of the Department of Environment and Natural Resources. The permittee shall report the data collected to the Division of Water Quality of the Department of Environment and Natural Resources.

(6) In addition to the requirements of subdivision (5) of this subsection, the developer shall comply with any other applicable requirements related to stormwater management.

(7) If the new urban waterfront area development authorized by this act as built within six years of the date of issuance of the major development permit fails to include commercial development, civic development, and open space substantially in accordance with the development proposed in the application for the major development permit, the developer shall provide mitigation for encroachment into riparian buffers that would otherwise be required under standards adopted by the Commission for development on public trust and estuarine shorelines.

SECTION 4. In order to determine whether additional new urban waterfront area developments should be allowed, and whether rules governing the developments should be modified, the Coastal Resources Commission shall evaluate the impacts on water quality and other environmental impacts from the new urban waterfront area development authorized by this act and evaluate the costs and benefits from the development to the area in which the development is located. The Coastal Resources Commission shall annually report its interim findings and recommendations, including any legislative proposals, to the Environmental Review Commission beginning 1 October 2005. The Coastal Resources Commission shall report its final findings and recommendations, including any legislative proposals, to the Environmental Review Commission no later than 1 October 2010.

SECTION 5. This act is effective when it becomes law. Sections 1 through 3 of this act expire 1 July 2010.

In the General Assembly read three times and ratified this the 8th day of July, 2004.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:21 p.m. this 17th day of July, 2004