

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 633
HOUSE BILL 1077

AN ACT TO MAKE VARIOUS CHANGES IN THE MARINE FISHERIES LAWS
AND TO CREATE A SCIENTIFIC ADVISORY COUNCIL.

The General Assembly of North Carolina enacts:

Section 1. (a) G.S. 113-154(c1) reads as rewritten:

"(c1) A shellfish leaseholder under G.S. 113-202, or a water column leaseholder under G.S. 113-202.1 or G.S. 113-202.2 G.S. 113-202.2, or a franchise holder under G.S. 113-206 who purchases an individual shellfish license under this section, may utilize up to two additional persons to take shellfish from the leaseholder's lease without purchasing additional individual shellfish licenses. The leaseholder shall be on the premises supervising the person or persons, and the person or persons shall be restricted to taking shellfish only from the leaseholder's lease employ persons who do not possess individual shellfish licenses, provided that the employees have written proof of employment on hand, if requested for inspection by a Marine Fisheries officer to verify lawful activities on the lease. The written proof of employment shall include: (i) the name and address of the leaseholder or franchise holder; (ii) the lease or franchise number; (iii) the date of issuance and expiration of the lease or franchise; and (iv) the employee's name and address. The proof of employment shall be signed and dated by the leaseholder or franchise holder."

(b) Section 3 of Chapter 547 of the 1995 Session Laws (1996 Regular Session) is amended by deleting the phrase "Carteret County" and by substituting the phrase "Core Sound".

Sec. 2. Article 15 of Chapter 113 of the General Statutes is amended by adding a new section to read:

§ 113-190. Fishery Resource Grant Program.

(a) Creation. – There is created within the Sea Grant College Program at The University of North Carolina, the Fishery Resource Grant Program. The purpose of the program is to work within priorities established by the Marine Fisheries Commission to protect and enhance the State's coastal fishery resources through individual grants in the following areas:

- (1) New fisheries equipment or gear;
- (2) Environmental pilot studies, including water quality and fisheries habitat;
- (3) Aquaculture or mariculture of marine dependent species; or
- (4) Seafood technology.

(b) Annual Establishment of Priorities. – The Commission shall, in cooperation with fishermen, the Division of Marine Fisheries, and the Sea Grant College Program, establish priorities effective July 1 of each year for the grant program. The adoption of priorities by the Commission shall not be considered rule making within the meaning of the Administrative Procedure Act. The Commission shall provide public notice of its proposed priorities at least 30 days before the Commission meeting prior to a final determination of its priorities for the fiscal year.

(c) Procedure to Solicit Proposals. – Following the establishment of priorities by the Commission, Sea Grant shall hold workshops within each of the coastal regions to solicit applications and to assist persons involved in fishing industries in writing proposals. For purposes of this act, the term 'fishing industry' includes persons involved in: (i) commercial or recreational fishing; (ii) aquaculture or mariculture; or (iii) handling fish products such as seafood dealers or processors. Sea Grant shall encourage preproposal conferences between individuals in the fisheries industry and those with technical or research background to work as partners in developing and writing the proposals and in writing final report results. If the grants approved by the Commission do not utilize all available funds, Sea Grant may advertise and solicit additional applications during the applicable fiscal year.

(d) Application for Grant Program. – An applicant may apply for grant funds to the Sea Grant College Program. For purposes of this subsection, every proposal shall include substantial involvement of active North Carolina persons involved in a fishing industry. A proposal generated by a person not involved in a fishing industry may be eligible for funding only if the proposal includes written endorsements supporting the project from persons or organizations representing fishing industries. An application shall include, but not be limited to, the following:

- (1) Name and address of the primary applicant;
- (2) List of licenses issued to the applicant by the State of North Carolina;
- (3) A description of the project;
- (4) A detailed statement of the projected costs of the project including the cost to plan and design the project;
- (5) An explanation of how the project will enhance the fishery resource;
- (6) List of names and addresses of any other persons who will participate in the project; and
- (7) Any other information necessary to make a recommendation on the application.

(e) Review Process. – Sea Grant shall conduct an anonymous peer review of all applications for fisheries grants. At least one of the peer reviewers shall be a person involved in a fishing industry. Applications shall be confidential and shall not be defined as a public record as defined under G.S. 132-1 until after the closing date for submission of applications. Following the review of all proposals, Sea Grant shall rank proposals in order of priority and shall present the recommendations to the Commission. Any criterion used by Sea Grant in ranking proposals shall not require rule making within the meaning of the Administrative Procedure Act, but such criteria shall be public records as defined in G.S. 132-1.

(f) Award Process. – The Commission shall review the ranking of proposals, and if consistent with the priority rankings established under subsection (e) of this section, shall fund those proposals. Applications that include involvement by fishermen in the project shall be accorded a priority in funding by the Commission. Following approval by the Commission, the Sea Grant College Program shall award the grants. To the extent practicable, the Sea Grant College Program shall distribute grant funding among the northern, southern, central, and Pamlico coastal regions.

(g) Restrictions on Grants. – No member of the Commission may benefit financially from a grant. If a grant recipient from a prior year has failed to perform a grant project to the satisfaction of the Sea Grant College Program or the Commission, the Sea Grant College Program may decline to fund any new application involving the principal applicant.

(h) Grant Reports and Funding. – Grant recipients shall provide quarterly progress reports to the Sea Grant College Program and shall submit invoices for expenditures for each quarter. Twenty-five percent (25%) of the total grant award shall be held until the grant recipient has completed the project and submitted a final written report. The remainder of the grant award shall be distributed upon approval of each quarterly report and upon verification of the expenditures.

(i) Report on Grant Program. – The Sea Grant College Program shall report on an annual basis to the Marine Fisheries Commission and the Joint Legislative Commission on Seafood and Aquaculture."

Sec. 3. (a) Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-215.22J. Scientific Advisory Council on Water Resources and Coastal Fisheries Management established; membership, compensation.

(a) The Scientific Advisory Council on Water Resources and Coastal Fisheries Management (hereinafter 'Council') is created in the Department of Environment, Health, and Natural Resources.

(b) The Council shall have eight members, including the Secretary of the Department of Environment, Health, and Natural Resources, who shall chair the Council, and the Dean of the School of Agriculture and Life Sciences of North Carolina State University. The members of the Council shall elect a vice-chair from among the Council membership. The Chair of the Council shall solicit three recommendations from the scientific community including private scientists representing industrial and environmental concerns, as well as the academic community for each of the six appointees and shall select members from among those recommendations. Members shall have the following qualifications:

- (1) One member with expertise and training in water quality;
- (2) One member with expertise and training in coastal or marine fisheries;
- (3) One member with expertise and training in resource economics;
- (4) One member with expertise and training in physical modeling;
- (5) One member with expertise and training in wetlands; and
- (6) One member with expertise and training in the social sciences.

The members shall be appointed for staggered two-year terms and may be reappointed for subsequent terms. Members shall serve at the pleasure of the Secretary.

(c) To the extent that funds are made available, members of the Council shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5.

(d) A majority of the Council shall constitute a quorum for the transaction of its business.

(e) The Council may use funds allocated to it to employ an administrative staff person to assist the Council in carrying out its duties. The Secretary shall provide clerical and other support staff services needed by the Council.

(f) The Council shall meet quarterly, or more frequently at the request of the Chair or three members of the Council.

"§ 143-215.22K. Scientific Advisory Council on Water Resources and Coastal Fisheries Management; functions and responsibilities.

(a) The Council shall have the following responsibilities:

- (1) Review a plan prepared by the Department concerning the statewide implementation of an interagency comprehensive coordinated water resources and coastal fisheries management programs.
- (2) Discuss the limitations and problems associated with existing laws, regulations, programs, and services related to water resources and coastal fisheries.
- (3) Evaluate trends and conditions of the State's water quality resources and coastal fisheries management.
- (4) Oversee the development of a comprehensive monitoring program including:
 - a. Participating in the overall design of the plan relating to the collection and use of data;
 - b. Evaluating statewide and national water resource and coastal fisheries programs;
 - c. Coordinating funding sources for programs;
 - d. Evaluating and developing research to address water quality and fisheries issues; and
 - e. Reviewing procedures for awarding grants to local agencies providing services.
- (5) Identify research and outreach needs and to commission studies to respond to those needs.
- (6) Assist in developing and maintaining interagency training and technical assistance in the provision of water resource and coastal fisheries programs.

(b) The Secretary shall seek the advice of the Council on issues involving changes in water quality and fisheries management.

(c) The Council shall submit a written annual report not later than October 1 of each year, to the Secretary, the Governor, the Environmental Review Commission and the Joint Legislative Commission on Governmental Operations. The report shall

address the progress in implementation of a coordinated water resources and coastal fisheries management program. The report shall include an accounting of funds expended and anticipated funding needs for full implementation of recommended programs."

(b) Effective upon ratification, the Secretary shall appoint three members of the Council to one-year terms and the remaining three members to two-year terms.

Sec. 4. The Department of Environment, Health, and Natural Resources shall coordinate an intradepartmental effort to develop scientific protocols to respond to significant fish kill events utilizing staff from the Division of Environmental Management, Division of Marine Fisheries, Division of Epidemiology, Wildlife Resources Commission, the scientific community, and other agencies, as necessary. In developing these protocols, the Department shall address the unpredictable nature of fish kills caused by both natural and man-made factors. The protocols shall contain written procedures to respond to significant fish kill events including:

- (1) Developing a plan of action to evaluate the impact of fish kills on public health and the environment.
- (2) Responding to fish kills within 24 hours.
- (3) Investigating and collecting data relating to fish kill events.
- (4) Summarizing and distributing fish kill information to participating agencies, scientists and other interested parties.

The Secretary of the Department shall take all necessary and appropriate steps to effectively carry out the purposes of this act including:

- (1) Providing adequate training for fish kill investigators.
- (2) Taking immediate action to protect public health and the environment.
- (3) Cooperating with agencies, scientists, and other interested parties, to help determine the cause of the fish kill.

The Department shall report annually to the Environmental Review Commission and the Senate Agriculture and Environment Committee no later than December 1 of each year. This report shall include a summary of all fish kill activity within the last year, an overview of any trend analyses, a discussion of any new or modified methodologies or reporting protocols, and any other relevant information.

Sec. 5. Funds appropriated to the Department of Environment, Health, and Natural Resources for the Fishery Resource Grant Program under Section 2 of Chapter 324 of the 1994 Session Laws shall be transferred to the Board of Governors of The University of North Carolina for the Sea Grant College Program to administer the Fishery Resource Grant Program. The Sea Grant College Program may use up to twenty-five thousand dollars (\$25,000) for administrative expenses relating to the Fishery Resource Grant Program.

Sec. 6. Notwithstanding subsection (b) of Section 2 of this act, the Marine Fisheries Commission may establish priorities by September 1, 1996, for the 1996-97 fiscal year.

Sec. 7. (a) The Marine Fisheries Commission may adopt temporary rules to establish recreational bag and size limits for bluefish, striped bass, and weakfish to comply with conservation equivalencies allowed under fisheries management plans

adopted by the Atlantic States Marine Fisheries Commission. The Marine Fisheries Commission may adopt temporary rules to correct an omission concerning bag limits for spotted sea trout.

(b) The Marine Fisheries Commission may adopt temporary rules to change the closure days for shrimping.

Sec. 8. This act constitutes a recent act of the General Assembly within the meaning of G.S. 150B-21.1. The Marine Fisheries Commission may adopt temporary rules to implement this act.

Sec. 9. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives