

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1396**

Short Title: Amend Marine Fisheries Commn Membership. (Public)

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Sponsors: Representatives Spear, Justice (Primary Sponsors); Owens, Wainwright, and Wray.

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Referred to: Environment and Natural Resources.

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April 12, 2007

A BILL TO BE ENTITLED  
AN ACT TO MODIFY THE MARINE FISHERIES COMMISSION MEMBERSHIP  
TO INCLUDE REPRESENTATIVES OF THE CHARTER BOAT OR HEAD  
BOAT INDUSTRY.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 143B-289.54 reads as rewritten:

**"§ 143B-289.54. Marine Fisheries Commission – members; appointment; term; oath; ethical standards; removal; compensation; staff.**

(a) Members, Selection. – The Marine Fisheries Commission shall consist of ~~nine~~11 members appointed by the Governor as follows:

- (1) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
- (2) One person actively engaged in, or recently retired from, commercial fishing as demonstrated by currently or recently deriving at least fifty percent (50%) of annual earned income from taking and selling fishery resources in coastal fishing waters of the State. The spouse of a commercial fisherman who meets the criteria of this subdivision may be appointed under this subdivision.
- (3) One person actively connected with, and experienced as, a licensed fish dealer or in seafood processing or distribution as demonstrated by deriving at least fifty percent (50%) of annual earned income from activities involving the buying, selling, processing, or distribution of seafood landed in this State. The spouse of a person qualified under

1 this subdivision may be appointed provided that the spouse is actively  
2 involved in the qualifying business.

3 (4) One person actively engaged in recreational sports fishing in coastal  
4 waters in this State. An appointee under this subdivision may not  
5 derive more than ten percent (10%) of annual earned income from  
6 sports fishing activities.

7 (5) One person actively engaged in recreational sports fishing in coastal  
8 waters in this State. An appointee under this subdivision may not  
9 derive more than ten percent (10%) of annual earned income from  
10 sports fishing activities.

11 (6) One person actively engaged in the sports fishing industry as  
12 demonstrated by deriving at least fifty percent (50%) of annual earned  
13 income from selling goods or services in this State. The spouse of a  
14 person qualified under this subdivision may be appointed provided that  
15 the spouse is actively involved in the qualifying business.

16 (7) One person having general knowledge of and experience related to  
17 subjects and persons regulated by the Commission.

18 (8) One person having general knowledge of and experience related to  
19 subjects and persons regulated by the Commission.

20 (9) One person who is a fisheries scientist having special training and  
21 expertise in marine and estuarine fisheries biology, ecology,  
22 population dynamics, water quality, habitat protection, or similar  
23 knowledge. A person appointed under this subdivision may not receive  
24 more than ten percent (10%) of annual earned income from either the  
25 commercial or sports fishing industries, including the processing and  
26 distribution of seafood.

27 (10) One person actively engaged in providing charter boat or head boat  
28 services as demonstrated by currently or recently deriving at least fifty  
29 percent (50%) of annual earned income from charter boat or head boat  
30 service in the State. The spouse of a charter boat or head boat captain  
31 who meets the criteria of this subdivision may be appointed under this  
32 subdivision.

33 (11) One person actively engaged in, or recently retired from, providing  
34 charter boat or head boat services as demonstrated by currently or  
35 recently deriving at least fifty percent (50%) of annual earned income  
36 from charter boat or head boat service in the State. The spouse of a  
37 charter boat or head boat captain who meets the criteria of this  
38 subdivision may be appointed under this subdivision.

39 (b) Residential Qualifications. – For purposes of providing regional  
40 representation on the Commission, the following three coastal regions of the State are  
41 designated: (i) Northeast Coastal Region comprised of Bertie, Camden, Chowan,  
42 Currituck, Dare, Gates, Halifax, Hertford, Martin, Northampton, Pasquotank,  
43 Perquimans, Tyrrell, and Washington Counties, (ii) Central Coastal Region comprised  
44 of Beaufort, Carteret, Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast

1 Coastal Region comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow,  
2 and Pender Counties. Persons appointed under subdivisions (1), (2), (3), (4), ~~and (8)-(8),~~  
3 (10), and (11) of subsection (a) of this section shall be residents of one of the coastal  
4 regions of the State. The membership of the Commission shall include at least one  
5 person who is a resident of each of the three coastal regions of the State.

6 (c) Additional Considerations. – In making appointments to the Commission, the  
7 Governor shall provide for appropriate representation of women and minorities on the  
8 Commission. The Governor shall make appointments to the Commission consistent  
9 with the restrictions of G.S. 113-200(g).

10 (d) Terms. – The term of office of members of the Commission is three years. A  
11 member may be reappointed to any number of successive three-year terms. Upon the  
12 expiration of a three-year term, a member shall continue to serve until a successor is  
13 appointed and duly qualified as provided by G.S. 128-7. The term of members  
14 appointed under subdivisions (1), (4), ~~and (7)-(7), and (10)~~ of subsection (a) of this  
15 section shall expire on 30 June of years evenly divisible by three. The term of members  
16 appointed under subdivisions (2), (5), ~~and (8)-(8), and (11)~~ of subsection (a) of this  
17 section shall expire on 30 June of years that precede by one year those years that are  
18 evenly divisible by three. The term of members appointed under subdivisions (3), (6),  
19 and (9) of subsection (a) of this section shall expire on 30 June of years that follow by  
20 one year those years that are evenly divisible by three.

21 (e) Vacancies. – An appointment to fill a vacancy shall be for the unexpired  
22 balance of the term.

23 (f) Oath of Office. – Each member of the Commission, before assuming the  
24 duties of office, shall take an oath of office as provided in Chapter 11 of the General  
25 Statutes.

26 (g) Ethical Standards. –

27 (1) Disclosure statements. – Any person under consideration for  
28 appointment to the Commission shall provide both a financial  
29 disclosure statement and a potential bias disclosure statement to the  
30 Governor. A financial disclosure statement shall include statements of  
31 the nominee's financial interests in and related to State fishery  
32 resources use, licenses issued by the Division of Marine Fisheries held  
33 by the nominee or any business in which the nominee has a financial  
34 interest, and uses made by the nominee or by any business in which  
35 the nominee has a financial interest of the regulated resources. A  
36 potential bias disclosure statement shall include a statement of the  
37 nominee's membership or other affiliation with, including offices held,  
38 in societies, organizations, or advocacy groups pertaining to the  
39 management and use of the State's coastal fishery resources.  
40 Disclosure statements shall be treated as public records under Chapter  
41 132 of the General Statutes and shall be updated on an annual basis.

42 (2) Voting/conflict of interest. – A member of the Commission shall not  
43 vote on any issue before the Commission that would have a  
44 "significant and predictable effect" on the member's financial interest.

1 For purposes of this subdivision, "significant and predictable effect"  
2 means there is or may be a close causal link between the decision of  
3 the Commission and an expected disproportionate financial benefit to  
4 the member that is shared only by a minority of persons within the  
5 same industry sector or gear group. A member of the Commission  
6 shall also abstain from voting on any petition submitted by an  
7 advocacy group of which the member is an officer or sits as a member  
8 of the advocacy group's board of directors. A member of the  
9 Commission shall not use the member's official position as a member  
10 of the Commission to secure any special privilege or exemption of  
11 substantial value for any person. No member of the Commission shall,  
12 by the member's conduct, create an appearance that any person could  
13 improperly influence the member in the performance of the member's  
14 official duties.

15 (3) Regular attendance. – It shall be the duty of each member of the  
16 Commission to regularly attend meetings of the Commission.

17 (h) Removal. – The Governor may remove, as provided in G.S. 143B-13, any  
18 member of the Commission for misfeasance, malfeasance, or nonfeasance.

19 (i) Office May Be Held Concurrently With Others. – The office of member of  
20 the Marine Fisheries Commission may be held concurrently with any other elected or  
21 appointed office, as authorized by Article VI, Section 9, of the Constitution of North  
22 Carolina.

23 (j) Compensation. – Members of the Commission who are State officers or  
24 employees shall receive no per diem compensation for serving on the Commission, but  
25 shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the  
26 Commission who are full-time salaried public officers or employees other than State  
27 officers or employees shall receive no per diem compensation for serving on the  
28 Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6  
29 in the same manner as State officers or employees. All other Commission members  
30 shall receive per diem compensation and reimbursement in accordance with the  
31 compensation rate established in G.S. 93B-5.

32 (k) Staff. – All clerical and other services required by the Commission shall be  
33 supplied by the Fisheries Director and the Department.

34 (l) Legal Services. – The Attorney General shall: (i) act as attorney for the  
35 Commission; (ii) at the request of the Commission, initiate actions in the name of the  
36 Commission; and (iii) represent the Commission in any appeal or other review of any  
37 order of the Commission."

38 **SECTION 2.** The initial term of office for the member of the Marine  
39 Fisheries Commission appointed under G.S. 143B-289.54(a)(11) expires June 30, 2009.  
40 The initial term of office for the member of the Marine Fisheries Commission appointed  
41 under G.S. 143B-289.54(a)(10) expires June 30, 2010.

42 **SECTION 3.** This act is effective when it becomes law.