

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS55065-TA-17 (02/07)

Short Title: Permit Terminal Groins.

(Public)

Sponsors: Senators Brown, Goolsby, Rabon (Primary Sponsors), Preston and White.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE PERMITTING AND CONSTRUCTION OF TERMINAL
3 GROINS AT INLETS UNDER CERTAIN CONDITIONS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 113A-115.1 reads as rewritten:

6 "§ 113A-115.1. Limitations on erosion control structures.

7 (a) As used in this section:

8 (1) "Erosion control structure" means a breakwater, bulkhead, groin, jetty,
9 revetment, seawall, or any similar structure.

10 (1a) "Estuarine shoreline" means all shorelines that are not ocean shorelines that
11 border estuarine waters as defined in G.S. 113A-113(b)(2).

12 (2) "Ocean shoreline" means the Atlantic Ocean, the oceanfront beaches, and
13 frontal dunes. The term "ocean shoreline" includes an ocean inlet and lands
14 adjacent to an ocean inlet but does not include that portion of any inlet and
15 lands adjacent to the inlet that exhibits characteristics of estuarine shorelines.

16 (3) "Terminal groin" means a structure that is constructed on the side of an inlet
17 at the terminus of an island generally perpendicular to the shoreline to limit
18 or control sediment passage into the inlet channel.

19 (b) No person shall construct a permanent erosion control structure in an ocean
20 shoreline. The Commission shall not permit the construction of a temporary erosion control
21 structure that consists of anything other than sandbags in an ocean shoreline. This section shall
22 not apply to ~~(i) any~~ any of the following:

23 (1) Any permanent erosion control structure that is approved pursuant to an
24 exception set out in a rule adopted by the Commission prior to ~~1 July 2003~~
25 or ~~(ii) any July 1, 2003.~~

26 (2) Any permanent erosion control structure that was originally constructed
27 prior to ~~1 July~~ July 1, 1974 and that has since been in continuous use to
28 protect an inlet that is maintained for navigation.

29 (3) Any terminal groin permitted pursuant to subsection (f) of this section.

30 (b1) This section shall not be construed to limit the authority of the Commission to adopt
31 rules to designate or protect areas of environmental concern, to govern the use of sandbags, or
32 to govern the use of erosion control structures in estuarine shorelines.

33 (c) The Commission may renew a permit for an erosion control structure issued
34 pursuant to a variance granted by the Commission prior to ~~1 July~~ July 1, 1995. The Commission
35 may authorize the replacement of a permanent erosion control structure that was permitted by



1 the Commission pursuant to a variance granted by the Commission prior to ~~1 July~~July 1, 1995
2 if the Commission finds that: (i) the structure will not be enlarged beyond the dimensions set
3 out in the original permit; (ii) there is no practical alternative to replacing the structure that will
4 provide the same or similar benefits; and (iii) the replacement structure will comply with all
5 applicable laws and with all rules, other than the rule or rules with respect to which the
6 Commission granted the variance, that are in effect at the time the structure is replaced.

7 (d) Any existing rule that prohibits permanent erosion control structures shall not apply
8 to terminal groins.

9 (e) In addition to the permit application requirements of Part 4 of Article 7 of Chapter
10 113A of the General Statutes, an application for a permit for the construction of a terminal
11 groin shall include all of the following:

12 (1) An assessment and finding that nonstructural approaches to erosion control,
13 including relocation of threatened structures, are found to be impractical.

14 (2) An environmental impact statement that has been reviewed by an
15 independent third party and satisfies the requirements of G.S. 113A-4.

16 (3) An engineering design bearing the seal of a registered professional engineer
17 licensed to practice pursuant to Chapter 89C of the General Statutes that
18 describes the construction and maintenance of the proposed terminal groin,
19 as well as the accompanying beach fill project required to be undertaken
20 pursuant to subsection (f) of this section. The engineering design shall
21 identify those property owners and local governments on both sides of the
22 inlet that may be affected by the construction of the proposed terminal groin.

23 (4) Proof of notification of those property owners and local governments on
24 both sides of the inlet identified in the engineering design prepared pursuant
25 to subdivision (3) of this subsection as potentially affected by the
26 construction of the proposed terminal groin.

27 (5) An inlet management plan that includes estuarine and ocean shorelines
28 immediately adjacent to, and under the influence of, the inlet that describes
29 postconstruction activities that the permittee will undertake to monitor the
30 effects of the terminal groin and related dredging and beach fill. The plan
31 shall define thresholds for assessing negative impacts to coastal resources
32 due to construction of the terminal groin and provide a plan for mitigating
33 negative impacts, including modification or removal of the terminal groin if
34 negative impacts cannot be mitigated. These mitigation efforts shall be the
35 responsibility of the permittee.

36 (6) Identification of the financial resources or funding sources necessary to
37 construct the terminal groin and the accompanying beach fill and to conduct
38 subsequent shoreline monitoring.

39 (f) A terminal groin shall only be permitted pursuant to this section under all of the
40 following conditions:

41 (1) The permit applicant has complied with the requirements of subsection (e) of
42 this section.

43 (2) The permit applicant has notified those property owners and local
44 governments on both sides of the inlet identified in the engineering design
45 prepared pursuant to subsection (e) of this section as potentially affected by
46 the construction of the proposed terminal groin.

47 (3) The construction of the terminal groin is accompanied by a concurrent beach
48 fill project to prefill the groin.

49 (g) Except as provided in this subsection, only one terminal groin may be placed on
50 each ocean shoreline immediately adjacent to an inlet for a maximum total of two groins per
51 inlet. One additional terminal groin may be placed on the ocean shoreline of an inlet when the

1 ocean shoreline is immediately adjacent to a federally maintained navigation channel
2 associated with a State port, the negative shoreline impacts from the navigation channel can be
3 identified and verified by an independent third party, and the additional terminal groin will be
4 able to mitigate negative shoreline impacts associated with the location and maintenance of the
5 navigation channel."

6 **SECTION 2.** The Department of Environment and Natural Resources shall amend
7 the management program it adopted pursuant to the federal Coastal Zone Management Act, 16
8 U.S.C. § 1451, et seq., to ensure the management program is consistent with G.S. 113A-115.1,
9 as amended by Section 1 of this act, and shall seek approval of the amended management plan
10 by the United States Secretary of Commerce or the Secretary's authorized designee no later
11 than six months after the effective date of this act.

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