

NORTH CAROLINA GENERAL ASSEMBLY
1967 SESSION

CHAPTER 890
SENATE BILL 617

1 AN ACT TO PERMIT PRODUCERS, HANDLERS, AND PROCESSORS OF FISHERY
2 AND SEA FOOD PRODUCTS TO ACT JOINTLY IN PROMOTING THEIR
3 INDUSTRY BY USE OF A SELF ASSESSMENT PROGRAM.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** Definitions. The definitions as given in G.S. 113-128 shall apply to this
8 Act, except that the following will additionally apply:

9 (1) Agency: a group or an association which shall make applications and
10 otherwise act for the fishing and sea food industry or a distinguishable part
11 thereof.

12 **Sec. 2.** It is declared to be in the interest of the public welfare of North Carolina
13 that those engaged in "coastal fisheries", as defined in G.S. 113-129, shall be permitted and
14 encouraged to act jointly and cooperatively for the purposes of promoting the common good,
15 welfare, and advancement of their industry.

16 **Sec. 3.** No association, meeting or activity undertaken in pursuance of the
17 provisions of this Article and intended to benefit all of the coastal fisheries or distinguishable
18 part thereof hereinunder certified by the Board shall be deemed or considered illegal or in
19 restraint of trade.

20 **Sec. 4.** It is hereby declared to be in the interest of the public that the coastal
21 fisheries or any distinguishable part thereof shall be permitted by referendum to be held among
22 themselves as prescribed by this Article, to levy upon themselves an assessment on such
23 respective catches, volume, landings, income, or production for the purposes of promoting the
24 common good, welfare, and advancement of the fishing and sea food industry of North
25 Carolina, in addition to any and all taxes, levies, and licenses in effect at the time of the
26 enactment of this Act, or that may be enacted and levied or imposed subsequently.

27 **Sec. 5.** Any agency fairly representative of any distinguishable part or all of the
28 fishing and sea food industry, may at any time make application in writing or petition to the
29 Board for certification and approval to conduct a referendum among the coastal fisheries or any
30 distinguishable part thereof for the purpose of levying an assessment under the provisions of
31 this Article, collecting, and utilizing the proceeds for the purposes stated in such referendum
32 and as set forth in this Act.

33 **Sec. 6.** Upon receiving an application or petition as herein provided, the Board shall
34 at its next regular quarterly meeting consider such application as follows:

35 (1) The Board shall determine if the agency is in fact fairly representative of the
36 coastal fisheries or distinguishable part thereof making application or
37 petitioning for referendum and record in its minutes its determination.

38 (2) The Board shall determine if the application or petition is in conformity with
39 the provisions and purposes of this Article and record in its minutes its
40 determination.

41 (3) If the Board determines in the affirmative as to (1) and (2) above, it shall
42 authorize and empower the agency to hold and conduct a referendum on the
43 question of whether or not members of the fishing and sea food industry, or

1 the distinguishable part thereof, making application or petition, shall levy
2 upon themselves an assessment under and subject to the conditions and
3 provisions and for the purpose stated in this Act.

4 **Sec. 7.** The agency shall fix, determine, and publicly announce such referendum at
5 least 30 days before the date set for such referendum, the date, hours, and polling places for
6 voting in such referendum, the amount and basis of the assessment proposed to be collected,
7 the means by which such assessment shall be collected if favorably voted upon, and the general
8 purposes to which said amount so collected shall be applied. Such public notice shall be
9 published at least once 20 days prior to the election in one or more newspapers having general
10 circulation in the area where the vote is to be taken.

11 **Sec. 8.** No assessment levied on any commodity under the provisions of this Act
12 shall exceed one per cent (1%) of the average value of this commodity during the next three
13 years for which published statistics by the State of North Carolina or the Federal Government
14 are available next preceding the application or petition.

15 **Sec. 9.** The arrangements for and management of any referendum conducted under
16 the provisions of this Article shall be under the direction of the agency duly certified and
17 authorized to conduct the same, and any and all expenses in connection herewith shall be borne
18 by the agency.

19 **Sec. 10.** Any referendum conducted under the provisions of this Act may be held
20 by mail ballot or by box ballot as may be determined and publicly announced as herein
21 provided by the agency before such referendum is called. A person licensed by the Department
22 of Conservation and Development to engage in business and commerce as may be directly
23 affected by the paying of the assessment, or anyone who would be subject to paying such
24 assessment should the question be voted in the affirmative, shall be eligible and may vote in
25 such referendum.

26 **Sec. 11.** The duly certified agency shall prepare and distribute in advance of such
27 referendum all necessary ballots for the purpose thereof, and shall under rules and regulations
28 drawn up and promulgated by said agency, arrange for the necessary poll holders or officials
29 for conducting the said referendum; and following said referendum and within 10 days
30 thereafter the duly certified agency shall canvass and publicly declare the result of such
31 referendum; except that in the event a mail ballot is used, a mail ballot shall be posted by
32 registered mail on a prearranged date at least 30 days following announcement of same to each
33 duly licensed voter by the agency, and a return, self-addressed envelope of suitable size and
34 construction for containing the completed ballot with ample postage affixed shall be enclosed
35 along with complete instructions on the voting procedure, these instructions stating that the
36 ballot should be marked by the voter to indicate and show his preference, then inserted into the
37 return envelope, sealed, and posted or returned within 10 days of the date of the original or first
38 posting, and on a predesignated date and hour at least 15 days after the original mailing and at
39 an open and public meeting, the return envelopes described above shall be opened, the ballots
40 counted, tabulated, and the results publicly declared by the agency or its authorized
41 representatives.

42 **Sec. 12.** If in such referendum called under the provisions of this Act two-thirds or
43 more of the voters eligible and voting vote in the affirmative and in favor of the levying and
44 collection of such assessment proposed in such referendum, then such assessment shall be
45 collected annually, or more often as predetermined by the agency, for the three years set forth
46 in the call for such referendum, and the collection of such assessment shall be under such
47 method, rules, and regulations as may be determined by the agency prior to the announcement
48 of the referendum and included in the announcement of the referendum; said assessment so
49 collected shall be paid into the treasury of the agency, to be used together with other funds,
50 including donations and grants from individuals, firms, governmental agencies, or corporations,
51 and from other fees, dues, or assessments, for the purpose set out in the referendum.

1 **Sec. 13.** As an alternate method for the collection of assessments provided for in
2 Section 3, upon the request or petition of the agency and action by the Board as prescribed in
3 Section 6, the Commissioner shall notify, by registered letter, all persons or firms licensed by
4 the Department of Conservation and Development to engage in business and commerce as may
5 be directly affected by the paying of the assessment, that on and after the date specified in the
6 letter the assessment shall become due and payable, and shall be remitted by said persons or
7 firms to the Commissioner who shall thereupon pay the amount of the assessments to the
8 agency. The books and records of all such persons and firms shall at all times during regular
9 business hours be open for inspection by the Commissioner or his duly authorized agents.

10 **Sec. 14.** In the event such referendum as herein provided for shall not be voted on
11 affirmatively by two-thirds or more of the voters eligible and voting, then the agency shall have
12 full power and authority to call another referendum for the purposes herein set forth at any time
13 after the next succeeding 12 months, on the question of an assessment for three years.

14 **Sec. 15.** In the event such referendum as herein provided for shall be voted on
15 affirmatively by two-thirds or more of the voters eligible and voting, then the agency shall in its
16 discretion have full power and authority to call and conduct during the third year after the latest
17 referendum another referendum for the purpose set forth herein for the next ensuing three
18 years.

19 **Sec. 16.** Any person or firm hereinunder assessed shall have the right to demand of
20 and receive from the treasurer or disbursing office of the agency a refund of such assessment so
21 collected, provided such demand for refund is made in writing within 30 days from the end of
22 the assessment year which shall be determined by the agency.

23 **Sec. 17.** Before collecting and receiving such assessments, such treasurer or
24 financial officer shall give bond to the agency to run in favor of the agency in the amount of the
25 estimated total of such assessments as will be collected, and from time to time the agency may
26 alter the amount of such bond which, at all times, must be equal to the total financial assets of
27 the agency, such bond to have as surety thereon a surety company licensed to do business in the
28 State of North Carolina, and to be in the form and amount approved by the agency and to be
29 filed with the chairman or executive head of such agency.

30 The Board shall cause an annual audit to be made of the financial records of the agency and
31 shall cause a copy of the audit, or a summary thereof, to be published at least once in one or
32 more newspapers having general circulation in the area where the assessments are made.

33 **Sec. 18.** All laws and clauses of laws in conflict with the provisions of this Act are
34 hereby repealed.

35 **Sec. 19.** This Act shall be in full force and effect from and after its ratification.

36 In the General Assembly read three times and ratified, this the 22nd day of June,
37 1967.