

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1250

Short Title: Expand Marine Fisheries Commission.

(Public)

Sponsors: Representatives Smith; Bonner and Warwick.

Referred to: Appropriations.

May 12, 1998

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE MEMBERSHIP OF THE MARINE FISHERIES COMMISSION AND TO APPROPRIATE FUNDS TO SUPPORT THE EXPANDED COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-289.24 reads as rewritten:

"§ 143B-289.24. Marine Fisheries Commission – members; appointment; term; oath; ethical standards; removal; compensation; staff.

(a) Members, Selection. – The Marine Fisheries Commission shall consist of ~~nine~~ 12 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

- 1 commercial fisherman who meets the criteria of this subdivision may be
2 appointed under this subdivision.
- 3 (3) One person actively connected with, and experienced as, a licensed fish
4 dealer or in seafood processing or distribution as demonstrated by
5 deriving at least fifty percent (50%) of annual earned income from
6 activities involving the buying, selling, processing, or distribution of
7 seafood landed in this State. The spouse of a person qualified under this
8 subdivision may be appointed provided that the spouse is actively
9 involved in the qualifying business.
- 10 (4) One person actively engaged in recreational sports fishing in coastal
11 waters in this State. An appointee under this subdivision may not derive
12 more than ten percent (10%) of annual earned income from sports
13 fishing activities.
- 14 (5) One person actively engaged in recreational sports fishing in coastal
15 waters in this State. An appointee under this subdivision may not derive
16 more than ten percent (10%) of annual earned income from sports
17 fishing activities.
- 18 (6) One person actively engaged in the sports fishing industry as
19 demonstrated by deriving at least fifty percent (50%) of annual earned
20 income from selling goods or services in this State. The spouse of a
21 person qualified under this subdivision may be appointed provided that
22 the spouse is actively involved in the qualifying business.
- 23 (7) One person having general knowledge of and experience related to
24 subjects and persons regulated by the Commission.
- 25 (8) One person having general knowledge of and experience related to
26 subjects and persons regulated by the Commission.
- 27 (9) One person who is a fisheries scientist having special training and
28 expertise in marine and estuarine fisheries biology, ecology, population
29 dynamics, water quality, habitat protection, or similar knowledge. A
30 person appointed under this subdivision may not receive more than ten
31 percent (10%) of annual earned income from either the commercial or
32 sports fishing industries, including the processing and distribution of
33 seafood.
- 34 (10) One person actively engaged in, or recently retired from, commercial
35 fishing as demonstrated by currently or recently deriving one hundred
36 percent (100%) of annual earned income from taking and selling fishery
37 resources in coastal fishing waters of the State. The spouse of a
38 commercial fisherman who meets the criteria of this subdivision may be
39 appointed under this subdivision.
- 40 (11) One person actively engaged in, or recently retired from, commercial
41 fishing as demonstrated by currently or recently deriving one hundred
42 percent (100%) of annual earned income from taking and selling fishery
43 resources in coastal fishing waters of the State. The spouse of a

1 commercial fisherman who meets the criteria of this subdivision may be
2 appointed under this subdivision.

3 (12) One person actively engaged in, or recently retired from, commercial
4 fishing as demonstrated by currently or recently deriving one hundred
5 percent (100%) of annual earned income from taking and selling fishery
6 resources in coastal fishing waters of the State. The spouse of a
7 commercial fisherman who meets the criteria of this subdivision may be
8 appointed under this subdivision.

9 (b) Residential Qualifications. – For purposes of providing regional representation
10 on the Commission, the following three coastal regions of the State are designated: (i)
11 Northeast Coastal Region comprised of Bertie, Camden, Chowan, Currituck, Dare, Gates,
12 Halifax, Hertford, Martin, Northampton, Pasquotank, Perquimans, Tyrrell, and
13 Washington Counties, (ii) Central Coastal Region comprised of Beaufort, Carteret,
14 Craven, Hyde, Jones, and Pamlico Counties; and (iii) Southeast Coastal Region
15 comprised of Bladen, Brunswick, Columbus, New Hanover, Onslow, and Pender
16 Counties. Persons appointed under subdivisions (1), (2), (3), (4), and (8) of subsection
17 (a) of this section shall be residents of one of the coastal regions of the State. ~~The~~
18 ~~membership of the Commission shall include at least one person who is a resident of each of the~~
19 ~~three coastal regions of the State.~~ The person appointed under subdivision (10) of
20 subsection (a) of this section shall be a resident of the Northeast Coastal Region. The
21 person appointed under subdivision (11) of subsection (a) of this section shall be a
22 resident of the Central Coastal Region. The person appointed under subdivision (12) of
23 subsection (a) of this section shall be a resident of the Southeast Coastal Region.

24 (c) Additional Considerations. – In making appointments to the Commission, the
25 Governor shall provide for appropriate representation of women and minorities on the
26 Commission.

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

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

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

42 (g) Ethical Standards. –

- 1 (1) Disclosure statements. – Any person under consideration for
2 appointment to the Commission shall provide both a financial disclosure
3 statement and a potential bias disclosure statement to the Governor. A
4 financial disclosure statement shall include statements of the nominee's
5 financial interests in and related to State fishery resources use, licenses
6 issued by the Division of Marine Fisheries held by the nominee or any
7 business in which the nominee has a financial interest, and uses made by
8 the nominee or by any business in which the nominee has a financial
9 interest of the regulated resources. A potential bias disclosure statement
10 shall include a statement of the nominee's membership or other
11 affiliation with, including offices held, in societies, organizations, or
12 advocacy groups pertaining to the management and use of the State's
13 coastal fishery resources. Disclosure statements shall be treated as
14 public records under Chapter 132 of the General Statutes and shall be
15 updated on an annual basis.
- 16 (2) Voting/conflict of interest. – A member of the Commission shall not
17 vote on any issue before the Commission that would have a 'significant
18 and predictable effect' on the member's financial interest. For purposes
19 of this subdivision, 'significant and predictable effect' means there is or
20 may be a close causal link between the decision of the Commission and
21 an expected disproportionate financial benefit to the member that is
22 shared only by a minority of persons within the same industry sector or
23 gear group. A member of the Commission shall also abstain from
24 voting on any petition submitted by an advocacy group of which the
25 member is an officer or sits as a member of the advocacy group's board
26 of directors. A member of the Commission shall not use the member's
27 official position as a member of the Commission to secure any special
28 privilege or exemption of substantial value for any person. No member
29 of the Commission shall, by the member's conduct, create an appearance
30 that any person could improperly influence the member in the
31 performance of the member's official duties.
- 32 (3) Regular attendance. – It shall be the duty of each member of the
33 Commission to regularly attend meetings of the Commission.
- 34 (h) Removal. – The Governor may remove, as provided in G.S. 143-13, any
35 member of the Commission for misfeasance, malfeasance, or nonfeasance.
- 36 (i) Office May Be Held Concurrently With Others. – The office of member of the
37 Marine Fisheries Commission may be held concurrently with any other elected or
38 appointed office, as authorized by Article VI, Section 9, of the Constitution of North
39 Carolina.
- 40 (j) Compensation. – Members of the Commission who are State officers or
41 employees shall receive no per diem compensation for serving on the Commission, but
42 shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the
43 Commission who are full-time salaried public officers or employees other than State

1 officers or employees shall receive no per diem compensation for serving on the
2 Commission, but shall be reimbursed for their expenses in accordance with G.S. 138-6 in
3 the same manner as State officers or employees. All other Commission members shall
4 receive per diem compensation and reimbursement in accordance with the compensation
5 rate established in G.S. 93B-5.

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

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

12 Section 2. In order to maintain a schedule of staggered terms of three years for
13 the Marine Fisheries Commission, the term of the member of the Commission initially
14 filling the position established by subdivision (10) of subsection (a) of G.S. 143B-289.24,
15 as amended by Section 1 of this act, shall begin on the date the member is appointed and
16 duly qualified and shall expire on 30 June 2001; the term of the member of the
17 Commission initially filling the position established by subdivision (11) of subsection (a)
18 of G.S. 143B-289.24, as amended by Section 1 of this act, shall begin on the date the
19 member is appointed and duly qualified and shall expire on 30 June 2000; the term of the
20 member of the Commission initially filling the position established by subdivision (12) of
21 subsection (a) of G.S. 143B-289.24, as amended by Section 1 of this act, shall begin on
22 the date the member is appointed and duly qualified and shall expire on 30 June 2002.

23 Section 3. There is appropriated to the Department of Environment and
24 Natural Resources the sum of twenty thousand dollars (\$20,000) for the 1998-99 fiscal
25 year for administrative and other expenses of the Marine Fisheries Commission resulting
26 from the expansion of the Commission pursuant to Sections 1 and 2 of this act.

27 Section 4. This act becomes effective 1 July 1998.