

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

S

2

**SENATE BILL 732\*  
House Committee Substitute Favorable 6/29/04**

Short Title: New Urban Waterfront Development Pilot.

(Public)

---

Sponsors:

---

Referred to:

---

April 3, 2003

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE COASTAL RESOURCES COMMISSION TO  
2 IMPLEMENT A PILOT PROGRAM UNDER WHICH A COUNTY MAY  
3 DESIGNATE AN AREA AS A NEW URBAN WATERFRONT UNDER THE  
4 COASTAL AREA MANAGEMENT ACT OF 1974.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The General Assembly finds that:

- 8 (1) Development in coastal areas should occur in a manner that will  
9 conserve and manage the important natural features of the estuarine  
10 and ocean system so as to safeguard and perpetuate their biological,  
11 social, aesthetic, and economic values.  
12 (2) New urban waterfront development, which combines residential,  
13 commercial, and recreational uses in a publicly accessible,  
14 pedestrian-friendly traditional neighborhood community that preserves  
15 natural shorelines and other critical areas, has the potential to benefit  
16 the environment and quality of life in the area in which the  
17 development occurs.  
18 (3) The greatest potential benefit of new urban waterfront development  
19 lies in coastal counties that do not border the Atlantic Ocean and that  
20 are less densely populated than counties that, because of their  
21 proximity to ocean beaches, have experienced greater economic  
22 development.

23 **SECTION 2.** For purposes of this act:

- 24 (1) "Commission" means the Coastal Resources Commission.  
25 (2) "New urban waterfront area" means an area designated for  
26 development that includes a mixture of residential and commercial  
27 uses, recreational areas, and facilities for governmental or other civic  
28 purposes; provides for pedestrian access to residential, commercial,

1 civic and recreational areas; and incorporates open space for  
2 recreational and other public purposes.

3 **SECTION 3.(a)** The Commission shall implement a pilot program under  
4 which a county may designate an area as a new urban waterfront area under the Coastal  
5 Area Management Act of 1974. The purpose of the pilot is to determine the water  
6 quality and other environmental impacts from a new urban waterfront area development  
7 and to evaluate the benefits from the development to the area in which the development  
8 is located. To implement the pilot, the Commission shall consider and act on a request  
9 from a county to approve an amendment to its land-use plan that designates a new urban  
10 waterfront area outside the corporate limits of any municipality. For purposes of the  
11 pilot program, a request to approve an amendment to a land-use plan that designates a  
12 new urban waterfront area shall be approved by the Commission for only one county.  
13 The new urban waterfront area shall be located in a county that does not border the  
14 Atlantic Ocean and that has a population density of not more than 150 persons per  
15 square mile as determined by the 2000 census by the Bureau of the Census. The new  
16 urban waterfront area shall not exceed 500 acres and shall not include more than one  
17 mile of natural shoreline. The new urban waterfront area may be located in an area that  
18 drains to existing public trust waters or may be located in an area that drains to an  
19 artificially created body of water accessible to the public by navigation from public trust  
20 waters. The new urban waterfront area shall not be located in an area that, at the time  
21 that the Commission approves the amendment to the county land-use plan that  
22 designates the new urban waterfront area, drains directly to waters:

- 23 (1) Classified by the Environmental Management Commission as  
24 Outstanding Resource Waters, Nutrient Sensitive Waters, High Quality  
25 Waters, or SA Waters.
- 26 (2) Designated by the Marine Fisheries Commission as primary or  
27 secondary nursery areas.
- 28 (3) Designated by the Wildlife Resources Commission or the Department  
29 of Agriculture and Consumer Services as critical habitat areas.

30 **SECTION 3.(b)** A developer, pursuant to the Coastal Area Management Act  
31 of 1974 and rules adopted by the Commission to implement the Act, may submit an  
32 application for a major development permit for development in a new urban waterfront  
33 area. The new urban waterfront area development shall be subject to all of the  
34 following:

- 35 (1) The development shall be located in a new urban waterfront area  
36 designated in a county land-use plan approved by the Commission as  
37 provided in subsection (a) of this section.
- 38 (2) The new urban waterfront area development shall be accessible to the  
39 general public and shall provide for public access to the shoreline  
40 consistent with the county's public access plan.
- 41 (3) The new urban waterfront area development shall be served by  
42 centrally operated water, sewer, and stormwater management systems.  
43 Wastewater and stormwater management systems for the new urban

- 1 waterfront area development shall not discharge directly to estuarine or  
2 public trust waters.
- 3 (4) The new urban waterfront area development shall comply with all  
4 standards adopted by the Commission for development in coastal  
5 wetlands, public trust areas, and estuarine waters except as those  
6 standards are modified for urban waterfronts in rules adopted by the  
7 Commission. Development within a designated new urban waterfront  
8 area shall be authorized to the same extent and shall be subject to the  
9 same use standards and permitting requirements as development  
10 within areas designated as urban waterfronts under the rules of the  
11 Commission, except that the new urban waterfront area development  
12 shall comply with the 30-foot buffer requirement set out in 15A NCAC  
13 7H.0209(d)(10) along all natural shorelines.
- 14 (5) The developer of the new urban waterfront area development shall  
15 submit an application for a National Pollutant Discharge Elimination  
16 System (NPDES) permit for stormwater management and shall obtain  
17 the permit prior to commencement of any construction of a new urban  
18 waterfront area development. The National Pollutant Discharge  
19 Elimination System (NPDES) permit for stormwater management shall  
20 address the six minimum control measures required by 40 Code of  
21 Federal Regulations § 122.34(b) (1 July 2003 Edition). The National  
22 Pollutant Discharge Elimination System (NPDES) permit for  
23 stormwater management shall apply to the new urban waterfront area  
24 and to all other areas within the same common plan of development.  
25 The application for the National Pollutant Discharge Elimination  
26 System (NPDES) permit for stormwater management shall be  
27 reviewed by two independent experts approved by the Department.  
28 This review shall be conducted at the expense of the applicant. The  
29 permit shall require that the permittee establish and maintain water  
30 quality monitoring systems and conduct water quality monitoring at  
31 the locations and in the detail and frequency specified by the permit.  
32 The permittee shall submit the water quality samples collected  
33 pursuant to the permit to a laboratory certified by the Division of  
34 Water Quality of the Department of Environment and Natural  
35 Resources. The permittee shall report the data collected to the Division  
36 of Water Quality of the Department of Environment and Natural  
37 Resources.
- 38 (6) In addition to the requirements of subdivision (5) of this subsection,  
39 the developer shall comply with any other applicable requirements  
40 related to stormwater management.
- 41 (7) If the new urban waterfront area development authorized by this act as  
42 built within six years of the date of issuance of the major development  
43 permit fails to include commercial development, civic development,  
44 and open space substantially in accordance with the development

1                   proposed in the application for the major development permit, the  
2                   developer shall provide mitigation for encroachment into riparian  
3                   buffers that would otherwise be required under standards adopted by  
4                   the Commission for development on public trust and estuarine  
5                   shorelines.

6                   **SECTION 4.** In order to determine whether additional new urban waterfront  
7                   area developments should be allowed, and whether rules governing the developments  
8                   should be modified, the Coastal Resources Commission shall evaluate the impacts on  
9                   water quality and other environmental impacts from the new urban waterfront area  
10                  development authorized by this act and evaluate the costs and benefits from the  
11                  development to the area in which the development is located. The Coastal Resources  
12                  Commission shall annually report its interim findings and recommendations, including  
13                  any legislative proposals, to the Environmental Review Commission beginning 1  
14                  October 2005. The Coastal Resources Commission shall report its final findings and  
15                  recommendations, including any legislative proposals, to the Environmental Review  
16                  Commission no later than 1 October 2010.

17                  **SECTION 5.** This act is effective when it becomes law. Sections 1 through 3  
18                  of this act expire 1 July 2010.