

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 151

Short Title: Protect Natural/Scenic Rivers.

(Public)

Sponsors: Senators Sherron, Allran, Kaplan, Shaw; Basnight, Carpenter, Johnson, Odom, Plexico, Plyler, Staton, Tally, Ward, and Warren.

Referred to: Environment and Natural Resources.

February 20, 1991

A BILL TO BE ENTITLED

1 AN ACT TO STRENGTHEN THE NATURAL AND SCENIC RIVERS SYSTEM
2 AND TO REQUIRE ZONING AND OTHER LAND-USE CONTROLS TO
3 PROTECT DESIGNATED RIVERS.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 113A-34 reads as rewritten:

7 "**§ 113A-34. Types of scenic rivers.**

8 The following types of rivers are eligible for inclusion in the North Carolina natural
9 and scenic rivers system:

10 Class I. Natural river areas. Those free-flowing rivers or segments of rivers and
11 adjacent lands existing in a natural condition. Those rivers or segments of rivers that are
12 free of man-made impoundments and generally inaccessible except by trail, with the
13 lands within the boundaries essentially primitive and the waters essentially unpolluted.
14 These represent vestiges of primitive America.

15 Class II. Scenic river areas. Those rivers or segments of rivers that are largely free of
16 impoundments, with the lands within the boundaries largely primitive and largely
17 undeveloped, but accessible in places by roads. Scenic river areas provide beautiful
18 views, which may include forested landscapes and dispersed agricultural or pastoral
19 areas.

20 Class III. Recreational river areas. Those rivers or segments of rivers that offer
21 outstanding recreation and scenic values and that are largely free of impoundments.
22 They may have some development along their shorelines and have more extensive
23 public access than natural or scenic river segments. Recreational river segments may

1 also link two or more natural and/or scenic river segments to provide a contiguous
2 designated river area. ~~No provision of this section shall interfere with flood control measures;~~
3 ~~provided that recreational river users can continue to travel the river."~~

4 Sec. 2. G.S. 113A-36(c) and (c1) read as rewritten:

5 "~~(c) The Secretary of the Department shall study and from time to time submit to the~~
6 ~~Governor and to the General Assembly proposals for the additions to the system of~~
7 ~~riders and segments of rivers which, in his judgment, fall within one or more of the~~
8 ~~categories set out in G.S. 113A-34. Each proposal shall specify the category of the~~
9 ~~proposed addition and shall be accompanied by a detailed report of the facts which, in~~
10 ~~the Secretary's judgment, makes the area a worthy addition to the system. The~~
11 ~~Department shall study and submit to the Governor and to the General Assembly reports~~
12 ~~proposing additions to the rivers system. Each report shall specify the category of the~~
13 ~~proposed addition according to G.S. 113A-34. The report shall also contain at a~~
14 ~~minimum:~~

- 15 (1) A description of the area and whether it will be a worthy addition to
16 the system;
- 17 (2) The feasibility of the inclusion of a river or a segment within the
18 system;
- 19 (3) How the river or segment addresses needs identified in the
20 Systemwide Plan of the State Parks System pursuant to G.S. 113-44.11
21 and priorities identified in the rivers assessment;
- 22 (4) Preliminary cost estimates for land acquisition, capital improvements,
23 further planning, and operations; and
- 24 (5) What local governmental action should be or has been taken to protect
25 the river or segment.

26 Before submitting any proposal to the Governor or the General Assembly for the
27 addition to the system of a river or segment of a river, the ~~Secretary or his authorized~~
28 ~~representative, Department~~ shall hold a public hearing in the ~~county or counties each~~
29 county where said river or segment of river is situated. Notice of such public hearing
30 shall be given by publishing a notice once each week for two consecutive weeks in a
31 newspaper having general circulation in the county where said hearing is to be held, the
32 second of said notices appearing not less than 10 days before said hearing. Any person
33 attending said hearing shall be given an opportunity to be heard. Notwithstanding the
34 provisions of the foregoing, no public hearing shall be required with respect to a river
35 bounded solely by the property of one owner, who consents in writing to the addition of
36 such river to the system.

37 ~~The Department shall also conduct an investigation on the feasibility of the inclusion~~
38 ~~of a river or a segment of river within the system and file a written report with the~~
39 ~~Governor when submitting a proposal.~~

40 ~~The Department shall also, before submitting such a proposal to the Governor or the~~
41 ~~General Assembly, notify in writing the owner, lessee, or tenant of any lands adjoining~~
42 ~~said river or segment of river of its intention to make such proposal. In the event the~~
43 ~~Department, after due diligence, is unable to determine the owner or lessee of any such~~
44 ~~land, the Department may publish a notice for four successive weeks in a newspaper~~

1 ~~having general circulation in the county where the land is situated of its intention to~~
2 ~~make a proposal to the Governor or General Assembly for the addition of a river or~~
3 ~~segment of river to the system.~~

4 (c1) Upon receipt of a request in the form of a resolution from the commissioners
5 of the county or counties in which a river segment is located and upon studying the
6 segment and determining that it meets the criteria set forth in G.S. 113A-35, the
7 Secretary may designate the segment a potential component of the natural and scenic
8 rivers system. The designation as a potential component shall be transmitted to the
9 Governor and all appropriate State agencies. Any segment so designated is subject to
10 the provisions of this Article applicable to designated rivers, except for acquisition by
11 condemnation or otherwise, and to any rules adopted pursuant to this Article. The
12 designation as a potential component shall be a temporary designation which shall
13 expire after three years.

14 Within one year of designation as a potential component, the Department shall
15 submit to the Governor and the General Assembly a report on the river or segment in
16 accordance with G.S. 113A-36. The Secretary shall make a full report and, if appropriate, a
17 proposal for an addition to the natural and scenic rivers system to the General Assembly within
18 90 days after the convening of the next session following issuance of the designation, and the
19 The General Assembly shall determine whether to designate the segment as a
20 component of the natural and scenic rivers system based upon the proposed segment's
21 significance to the State Parks Act and the Systemwide Plan. If the next session of the
22 General Assembly fails to take affirmative action on the designation within the three-
23 year period, the designation as a potential component shall expire."

24 Sec. 3. G.S. 113A-37 reads as rewritten:

25 **"§ 113A-37. Raising the status of an area.**

26 Whenever in the judgment of the Secretary of the Department a scenic river segment
27 has been sufficiently restored and enhanced in its natural scenic and recreational
28 qualities so that a different classification is more appropriate, such segment may be
29 reclassified ~~with the approval of the Department, to a natural river area status by the~~
30 Department and thereafter administered accordingly."

31 Sec. 4. G.S. 113A-43 reads as rewritten:

32 **"§ 113A-43. Authorization of advances.**

33 The Department of Administration is hereby authorized to advance from land-
34 purchase appropriations necessary amounts for the purchase of land in those cases
35 where reimbursement will be later effected by the ~~Bureau of Outdoor Recreation-National~~
36 Park Service of the United States Department of the Interior."

37 Sec. 5. G.S. 113A-44 reads as rewritten:

38 **"§ 113A-44. Restrictions on project works on natural or scenic river.**

39 The State Utilities Commission may not permit the construction of any dam, water
40 conduit, reservoir, powerhouse transmission line, or any other project works on or
41 directly affecting any river that is designated as a component or potential component of
42 the State Natural and Scenic Rivers System. No department or agency of the State may
43 assist by loan, grant, license, permit, or otherwise in the construction of any ~~water~~
44 ~~resources~~ project that would have a direct and adverse effect on any river segment that is

1 designated as a component or potential component of the State Natural and Scenic
2 Rivers System. This section shall not, however, preclude licensing of or assistance to a
3 development below or above a designated or potential component. No department or
4 agency of the State may recommend authorization of any ~~water resources~~ project that
5 would have a direct and adverse effect on any river that is designated as a component or
6 potential component of the State Natural and Scenic Rivers System, or request
7 appropriations to begin construction of any such project, regardless of when authorized,
8 without advising the Secretary in writing of its intention to do so at least 60 days in
9 advance. Such department or agency making such recommendation or request shall
10 submit a written impact statement to the General Assembly to accompany the
11 recommendation or request specifically describing how construction of the project
12 would be in conflict with the purposes of this act and how it would affect the component
13 or potential component. Every State agency shall recognize the policy and purpose of
14 the Natural and Scenic Rivers Act and take steps necessary to protect and enhance the
15 natural, scenic, and recreational qualities of designated river segments."

16 Sec. 6. Chapter 113A of the General Statutes is amended by adding a new
17 section to read:

18 "**§ 113A-38.1. Land-use controls and guidelines.**

19 (a) In addition to acquisition of lands in fee simple or lesser interest as authorized
20 by G.S. 113A-38, riparian land along designated rivers or segments shall be protected
21 by local land-use controls which regulate the use and development of the river corridor.

22 For additions to the natural and scenic rivers system, local government with
23 jurisdiction over riparian land along designated rivers or segments has a two-year period
24 after designation to certify to the Department that the zoning or other land-use controls
25 are at least as restrictive as the guidelines established pursuant to subsection (b) of
26 this section. Certification shall be accompanied by the ordinance and zoning map
27 covering the area. Failure to accomplish the requirements of this subsection shall result
28 in the expiration of the designation of the river or segment as a component of the natural
29 and scenic rivers system.

30 (b) The Department shall by rule adopt land-use guidelines to implement this
31 section."

32 Sec. 7. This act becomes effective October 1, 1991.