

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**SENATE BILL 998
PROPOSED COMMITTEE SUBSTITUTE S998-PCS75242-SB-10**

Short Title: Moratorium on Certain Sandbag Removals.

(Public)

Sponsors:

Referred to:

March 26, 2009

A BILL TO BE ENTITLED

1 AN ACT TO IMPOSE A MORATORIUM ON CERTAIN ACTIONS OF THE COASTAL
2 RESOURCES COMMISSION RELATED TO TEMPORARY EROSION CONTROL
3 STRUCTURES AND TO DIRECT THE DEPARTMENT OF ENVIRONMENT AND
4 NATURAL RESOURCES TO STUDY EXISTING LAWS AND POLICIES RELATED
5 TO THE USE OF TEMPORARY EROSION CONTROL STRUCTURES TO PROTECT
6 IMMEDIATELY THREATENED ROADS AND BUILDINGS.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.1.** Definitions and Concepts. – The following definitions and concepts
9 apply to this act and its implementation:

- 10 (1) "Temporary erosion control structure" means a sandbag placed above mean
11 high water and parallel to the shore.
12
13 (2) A community is considered to be actively pursuing a beach nourishment or
14 inlet relocation project under any of the following circumstances:
15 a. The community has a current and valid Coastal Area Management
16 Act permit for the project.
17 b. The community has been identified by a U.S. Army Corps of
18 Engineers' Beach Nourishment Reconnaissance Study, General
19 Reevaluation Report, Coastal Storm Damage Reduction Study, or an
20 ongoing feasibility study by the U.S. Army Corps of Engineers.
21 c. The community has received a favorable economic evaluation report
22 on a federal project or is in the planning stages of a project that (i)
23 has been designed by the U.S. Army Corps of Engineers or persons
24 meeting applicable State occupational licensing requirements and (ii)
25 has been initiated by a local government or community working
26 toward the identification and adoption of a mechanism to provide the
27 necessary local or State funds to construct the project.

28 **SECTION 1.2.** Moratorium Established. – Notwithstanding Article 7 of Chapter
29 113A of the General Statutes and rules adopted pursuant to Article 7, there is hereby
30 established a moratorium on certain actions of the Coastal Resources Commission related to
31 temporary erosion control structures. The Commission shall not order the removal of a
32 temporary erosion control structure that has been permitted under Article 7 of Chapter 113A of
33 the General Statutes in a community that is actively pursuing a beach nourishment project or an
34 inlet relocation project on or before the effective date of this act.



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1 **SECTION 1.3.** Exceptions. – The moratorium on certain actions by the Coastal
2 Resources Commission related to temporary erosion control structures shall not prohibit the
3 Commission from undertaking any of the following actions:

- 4 (1) Granting permit modifications to allow the replacement, within the
5 originally permitted dimensions, of temporary erosion control structures that
6 have been damaged or destroyed.
7 (2) Requiring the removal of temporary erosion control structures installed in
8 violation of Article 7 of Chapter 113A of the General Statutes and rules
9 adopted pursuant to Article 7.
10 (3) Requiring that a temporary erosion control structure that has been modified
11 in violation of Article 7 of Chapter 113A of the General Statutes and rules
12 adopted pursuant to Article 7 be brought back into compliance with permit
13 conditions.
14 (4) Requiring the removal of a temporary erosion control structure that no
15 longer protects an imminently threatened road and associated right-of-way
16 or an imminently threatened building and associated septic system.

17 **SECTION 2.1.** Study. – The Department of Environment and Natural Resources,
18 in consultation with the Coastal Resources Commission, shall study existing laws and policies
19 related to the use of temporary erosion control structures for purposes of protecting imminently
20 threatened roads and buildings and shall determine whether changes should be made in law or
21 policy to better manage eroding shorelines in a manner consistent with protection of the
22 environmental, recreational, and economic value of the beaches and unobstructed public access
23 to the beach. The study shall give special consideration to use of temporary erosion control
24 structures on inlet shorelines and in communities actively pursuing a beach nourishment
25 project.

26 **SECTION 2.2.** Report. – No later than April 1, 2010, the Department of
27 Environment and Natural Resources shall report its findings, including any recommended
28 legislation, to the Environmental Review Commission. No later than June 1, 2010, the
29 Department shall report to the Environmental Review Commission on progress toward
30 completion of the Beach and Inlet Management Plan required by S.L. 2000-67.

31 **SECTION 3.** This act is effective when it becomes law. Section 1 of this act
32 expires September 1, 2010.