

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 415
PROPOSED SENATE COMMITTEE SUBSTITUTE H415-PCS80209-RF-23

Short Title: Topsail Beach/Nags Head/Littoral Rights.

(Local)

Sponsors:

Referred to:

March 22, 2011

A BILL TO BE ENTITLED

AN ACT PRESERVING LITTORAL RIGHTS IN THE TOWNS OF TOPSAIL BEACH AND
NAGS HEAD AFTER PUBLICLY FINANCED BEACH NOURISHMENT PROJECTS.

Whereas, the majority of properties in the Towns of Topsail Beach and Nags Head abutting and fronting on the Atlantic Ocean have been developed; and

Whereas, during the course of many years, much of the land abutting and fronting on the Atlantic Ocean in the Towns of Topsail Beach and Nags Head and belonging to various property owners has been and is now being washed away by successive storms, tides, and winds; and

Whereas, the Town of Topsail Beach with aid from the State of North Carolina, the United States Government, and the federal agencies thereunder, and with its own funds, has made available, is making available, and will make available, from time to time, funds with which to control the erosion caused by the storms, tides, winds, and other causes; and

Whereas, the Town of Nags Head with its own funds is making available, and will make available, from time to time, funds with which to control the erosion caused by the storms, tides, winds, and other causes; and

Whereas, a means of erosion control employed by the Town of Topsail Beach has been beach nourishment projects whereby lands are raised or constructed on the ocean beach through hydraulic pumping, hauling of sand, or by other means from the waters or from other sources within the nearby or immediate area onto the seaward side of the Town of Topsail Beach; and

Whereas, a means of erosion control to be employed by the Town of Nags Head will be beach nourishment projects whereby lands are raised or constructed on the ocean beach through hydraulic pumping, hauling of sand, or by other means from the waters or from other sources within the nearby or immediate area onto the seaward side of the Town of Nags Head; and

Whereas, to that end, the Towns of Topsail Beach and Nags Head have entered into contracts and intend in the future to enter into contracts for the beach nourishment projects; and

Whereas, as a result of the beach nourishment projects, there have been made, and are now being made, constructed, or raised, new lands on the oceanfront of the Town of Topsail Beach which have, may, or will change the location of the mean high-water mark or the waters of the Atlantic Ocean along the seaward boundary of the Town of Topsail Beach; and

Whereas, as a result of the beach nourishment projects, there will be made, constructed, or raised, new lands on the oceanfront of the Town of Nags Head which may, or



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1 will change the location of the mean high-water mark or the waters of the Atlantic Ocean along
2 the seaward boundary of the Town of Nags Head; and

3 Whereas, before and after the beach nourishment projects, a question has arisen in
4 the Town of Topsail Beach as to the effect of the projects on the littoral rights of the owners of
5 property along the oceanfront where the new lands have been, are being, and will be raised, and
6 the question will continue to arise unless the matter is clarified; and

7 Whereas, a question has arisen in the Town of Nags Head as to the effect of the
8 projects on the littoral rights of the owners of property along the oceanfront where the new
9 lands are being and will be raised, and the question will continue to arise unless the matter is
10 clarified; and

11 Whereas, the willingness of the oceanfront property owners in the Towns of Topsail
12 Beach and Nags Head to support and fund the beach nourishment projects will be enhanced and
13 uncertainty will be avoided if oceanfront property owners' littoral rights, including the right of
14 direct access from oceanfront property to the waters of the Atlantic Ocean, are preserved and
15 clarified; and

16 Whereas, the Towns of Topsail Beach and Nags Head desire to resolve any
17 ambiguity on the littoral rights and to define and provide for the littoral rights of the property
18 owners abutting on the oceanfront as they existed prior to the beach nourishment projects;
19 Now, therefore,

20 The General Assembly of North Carolina enacts:

21 **SECTION 1.(a)** Where land in or immediately along the Atlantic Ocean in the
22 Town of Topsail Beach has been raised above the mean high-water mark by publicly financed
23 beach nourishment projects which involve hydraulic dredging or deposition of spoil materials
24 or sand by other means, the owners of the property abutting the newly raised lands before the
25 beach nourishment projects shall, in front of their property, possess and keep the littoral rights
26 they possessed prior to the raising of lands by the beach nourishment projects, including direct
27 access to and in, as if littoral owners, the waters of the Atlantic Ocean bordering on the newly
28 raised lands.

29 **SECTION 1.(b)** Where land in or immediately along the Atlantic Ocean in the
30 Town of Nags Head is raised above the mean high-water mark by publicly financed beach
31 nourishment projects which involve hydraulic dredging or deposition of spoil materials or sand
32 by other means, the owners of the property abutting the newly raised lands before the beach
33 nourishment projects shall, in front of their property, possess and keep the littoral rights they
34 possessed prior to the raising of lands by the beach nourishment projects, including direct
35 access to and in, as if littoral owners, the waters of the Atlantic Ocean bordering on the newly
36 raised lands.

37 **SECTION 2.** Nothing herein shall otherwise affect or restrict title to or public trust
38 rights in lands raised by the beach nourishment projects.

39 **SECTION 3.** This act is effective when it becomes law.