

Excerpt House Bill 97 – Edition 7

SECTION 14.6.(h) The General Assembly finds that the New Inlet Dam or "The Rocks" is a breakwater established by the United States Army Corps of Engineers in the late 1800s. The New Inlet Dam is composed of two components, a Northern Component that extends from Federal Point to Zeke's Island and a Southern Component that extends southwestward from Zeke's Island and separates the New Inlet from the main channel of the Cape Fear River. The General Assembly further finds that the Southern Component of the New Inlet Dam impedes the natural flow of water between the Cape Fear River and the Atlantic Ocean that occurred prior to emplacement of the dam. The General Assembly further finds that it is necessary to remove the Southern Component of the New Inlet Dam in order to reestablish the natural hydrodynamic flow between the Cape Fear River and the Atlantic Ocean. To this end, the Department of Environment and Natural Resources shall do all of the following:

- 1) Notify the United States Army Corps of Engineers of the State's intent to remove the Southern Component of the New Inlet Dam.
- 2) Issue a Request for Proposals for a firm capable of conducting all aspects of removal of the Southern Component of the New Inlet Dam, including securing all necessary State and federal permits and developing and implementing a removal plan. Identification of a capable firm pursuant to this section shall be done in accordance with Article 8 of Chapter 143 of the General Statutes.
- 3) Execute a contract with the firm chosen to implement subdivision (2) of this subsection and exercise oversight of the fulfillment of the contract. Execution of a contract pursuant to this section shall be done in accordance with Article 8 of Chapter 143 of the General Statutes.
- 4) Request approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island for both of the following changes:
 - a. Moving the current western boundary 200 feet seaward and removing the area that lies between the current boundary and the new boundary from the North Carolina National Estuarine Research Reserve.
 - b. Compensating for any loss of acreage pursuant to sub-subdivision a. of this subdivision by adding a corresponding amount of acreage to the northern boundary of Zeke's Island from adjacent acreage at Fort Fisher State Recreation Area.
- 5) If the Department obtains approval from the National Oceanic and Atmospheric Administration to adjust the boundary established for Zeke's Island as described in subdivision (4) of this subsection, the Coastal Resources Commission shall amend 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) as follows:
 - a. Definitions. – "Reserve Components Rule" means 15A NCAC 070 .0105 (North Carolina Coastal Reserve: Reserve Components) for purposes of this section and its implementation.
 - b. Reserve Components Rule. – Until the effective date of the revised permanent rule that the Coastal Resources Commission is required to adopt pursuant to sub-subdivision d. of this subdivision, the Commission and the Department of Environment and Natural Resources shall implement the Reserve Components Rule, as provided in sub-subdivision c. of this subdivision.

- c. Implementation. – Notwithstanding the Reserve Components Rule, the Commission shall adjust the boundary established for Zeke's Island in conformance with any boundary change that is approved by the National Oceanic and Atmospheric Administration pursuant to subdivision (4) of this subsection.
- d. Additional rule-making authority. – The Commission shall adopt a rule to replace the Reserve Components Rule. Notwithstanding G.S. 150B-19(4), the rule adopted by the Commission pursuant to this subdivision shall be substantively identical to the provisions of sub-subdivision c. of this subdivision. Rules adopted pursuant to this subdivision are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this subdivision shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as provided by G.S. 150B-21.3(b2).
- e. Effective date. – Sub-subdivision c. of this subdivision expires when permanent rules to replace sub-subdivision c. of this subdivision have become effective, as provided by sub-subdivision d. of this subdivision.

Notwithstanding any other provision of law, the Department of Environment and Natural Resources may use funds from the Deep Draft Navigation Channel Dredging and Maintenance Fund, established pursuant to G.S. 143-215.73G, as enacted by subsection (c) of this section, to implement this subsection.