

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

SESSION LAW 2023-53
SENATE BILL 240

AN ACT TO PROVIDE CHOICE OF EROSION AND SEDIMENTATION CONTROL
PERMITTING AUTHORITY FOR CERTAIN AIRPORT AUTHORITIES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 113A-52 is amended by adding a new subdivision to read:

"(1b) "Airport authority" means an authority created under Chapter 63 of the General Statutes or by local act of the General Assembly for the purposes of operating an airport."

SECTION 2. G.S. 113A-56 reads as rewritten:

"§ 113A-56. Jurisdiction of the Commission.

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- (1) Conducted by the State.
- (2) Conducted by the United States.
- (3) Conducted by persons having the power of eminent domain other than a local ~~government~~ government, except for an airport authority as set forth in subsection (a1) of this section.
- (4) Conducted by a local ~~government~~ government, except for an airport authority as set forth in subsection (a1) of this section.
- (5) Funded in whole or in part by the State or the United States.

(a1) An airport authority operating an airport located wholly or in part in a county with a population greater than 250,000 according to the latest certified population totals of the State demographer may elect to be regulated under the jurisdiction of a local program authorized under G.S. 113A-60. An airport authority to which this subsection applies that is located in more than one county may elect to be regulated under local programs authorized under G.S. 113A-60 in each county for property of the airport authority located in each county. An airport authority making a local program election under this subsection shall be subject to the following requirements:

- (1) The governing board of the local government operating the local program must enact a resolution accepting jurisdiction over the airport authority.
- (2) The airport authority must provide notice to the Commission that includes (i) a certified copy of the resolution required by subdivision (1) of this subsection and (ii) specification of a date not less than 90 days after the date of the notice on which the local program will assume jurisdiction.
- (3) Any existing erosion and sedimentation control permits issued by the Commission shall, despite assumption of permitting authority by a local government, remain under the jurisdiction of the Commission until the airport authority has submitted a permit modification request consistent with this Article to transfer the permit to the local program.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A-56(a), in whole or in part, to any other State agency that has submitted an erosion and sedimentation



control program to be administered by it, if the program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that administer a delegated erosion and sedimentation control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to a delegated erosion and sedimentation control program:

- (1) To review erosion and sedimentation control plan approvals made by a delegated erosion and sedimentation control program and to require a revised plan if the Commission determines that a plan does not comply with the requirements of this Article or the rules adopted pursuant to this Article.
- (2) To review the compliance activities of a delegated erosion and sedimentation control program and to take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action."

SECTION 3. This act becomes effective October 1, 2023.

In the General Assembly read three times and ratified this the 15th day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Jeff Zenger
Presiding Officer of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:40 p.m. this 23rd day of June, 2023