

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 855
Commerce Committee Substitute Adopted 4/25/01**

Short Title: Airport Facilities Defined.

(Public)

Sponsors:

Referred to:

April 4, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DEFINITION OF AIRPORT FACILITIES FOR
3 CERTAIN PURPOSES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 63-1 is amended by adding a new subdivision to read:

6 "(8a) 'Airport facilities' means all properties, facilities, buildings, structures,
7 and activities that satisfy or otherwise fall within the scope of one or
8 more of the definitions or uses of the words or phrases 'air navigation
9 facility', 'airport', or 'airport protection privileges' under G.S. 63-1; the
10 definition of 'aeronautical facilities' in G.S. 63-79(1); the phrase
11 'airport facilities' as used in G.S. 159-48(b)(1); the phrase 'aeronautical
12 facilities' as defined in G.S. 159-81 and G.S. 159-97; and the phrase
13 'airport facilities and improvements' as used in Article V, Section 13,
14 of the North Carolina Constitution. This definition includes, without
15 limitation, any and all of the following: airports, airport maintenance
16 facilities, clear zones, drainage ditches, fields, hangars, landing
17 lighting, airport and airport-related offices, parking facilities, related
18 navigational and signal systems, runways, stormwater outfalls,
19 terminals, terminal shops, and all appurtenant areas used or suitable for
20 airport buildings or other airport facilities, and all appurtenant rights-
21 of-way; restricted landing areas; any structures, mechanisms, lights,
22 beacons, marks, communicating systems, or other instrumentalities or
23 devices used or useful as an aid, or constituting an advantage or
24 convenience to the safe taking off, navigation, and landing of aircraft,
25 or the safe and efficient operation or maintenance of an airport or
26 restricted landing area; easements through, or other interests in, air
27 space over land or water, interests in airport hazards outside the
28 boundaries of airports or restricted landing areas, and other protection
29 privileges, the acquisition or control of which is necessary to ensure

1 safe approaches to the landing areas of airports and restricted landing
2 areas, and the safe and efficient operation thereof; and any
3 combination of any or all of such facilities. This definition of airport
4 facilities shall be applicable to any and all rules and regulations
5 heretofore or hereafter adopted by any governmental body, agency, or
6 authority of the State of North Carolina or any subdivision thereof."

7 **SECTION 2.** The General Assembly finds that:

- 8 (1) The provision of adequate air service is vital to the continued
9 development of North Carolina, including the provision of adequate
10 airport facilities for flights into and out of the State.
- 11 (2) The areas in the Neuse River Basin are among the fastest growing in
12 North Carolina and, indeed, in the United States, with concomitant
13 growth in the need for air service and airport facilities.
- 14 (3) In order to ensure safe and adequate air service, the Federal Aviation
15 Administration has imposed, and continues to impose, new and
16 increasingly stringent requirements on airports and airport facilities,
17 such as the construction of safety areas at the ends of airport runways.
- 18 (4) Increased air traffic into and out of airports has created a need for
19 construction, expansion, renovation, and other work at and on all parts
20 of the airport facilities, including clear zones, fields, hangars, land,
21 landing lighting, airport and airport-related offices, parking facilities,
22 related navigational and signal systems, runways, terminals, terminal
23 and other airport shops, and all appurtenant areas used or suitable for
24 airport buildings or other airport facilities and all appurtenant
25 rights-of-way.
- 26 (5) Such work needs to proceed in a timely fashion and with predictable
27 timetables, given the need to schedule air traffic to accommodate this
28 construction work.
- 29 (6) The General Assembly established in 1996 (and as amended by
30 Session Law 1998-221) a goal to reduce the average annual load of
31 nitrogen delivered from point and nonpoint sources to the Neuse River
32 Estuary by a minimum of thirty percent (30%) of the average load for
33 the period 1991 through 1995 by the year 2001 and directed the
34 Environmental Management Commission ("EMC") to develop and
35 adopt a plan to achieve this goal.
- 36 (7) In 1997 the General Assembly directed the EMC to develop and
37 implement a basinwide water quality plan for each of the State's 17
38 major river basins.
- 39 (8) In 1997, in response to these legislative mandates, the EMC adopted a
40 Neuse River Nutrient Sensitive Water Management Strategy as
41 temporary and permanent rules and adopted revisions to these rules in
42 1998.

- 1 (9) In 1998 the General Assembly enacted legislation to disapprove 15A
2 NCAC 2B.0233, entitled the "Neuse River Nutrient Sensitive Waters
3 Management Strategy: Protection and Maintenance of Riparian Areas
4 with Existing Forest Vegetation" ("Temporary Neuse Buffer Rule") as
5 a permanent rule while continuing this rule in effect as a temporary
6 rule with certain modifications until the EMC adopted a revised
7 temporary and permanent rule.
- 8 (10) The EMC has also proposed and, in some cases, adopted other
9 basinwide water quality management strategies ("Basinwide
10 Management Strategies"), pursuant to G.S. 143-214.1, 143-214.7,
11 143-215.3, and 143B-282, in order to protect water quality standards
12 and uses as required to implement basinwide water quality
13 management plans, including permanent rules adopted for the Neuse
14 River and the Tar-Pamlico River Basins, including the Neuse Buffer
15 Rule.
- 16 (11) The Temporary Neuse Buffer Rule was replaced by a final rule,
17 (Neuse Buffer Rule), which becomes effective on August 1, 2001.
- 18 (12) The Neuse Buffer Rule and the other Basinwide Management
19 Strategies impact on airport facilities located within their respective
20 basin areas.
- 21 (13) The Neuse Buffer Rule contains references to the application of that
22 rule to "airport facilities," and allow work to occur at those airport
23 facilities, sometimes with mitigation, but that rule does not contain a
24 definition of what is meant by the phrase "airport facilities".
- 25 (14) The phrase "airport facilities" as used in the Neuse Buffer Rule has
26 been interpreted by the Division of Water Quality ("DWQ") within the
27 Department of Environment and Natural Resources ("DENR") very
28 narrowly, such as to include only runways, taxiways, and required
29 safety directional equipment.
- 30 (15) The lack of definition and the narrowness of interpretation of the
31 phrase "airport facilities" as used in the Neuse Buffer Rule have
32 created ambiguity, delay, additional expense and other problems for
33 airports seeking to meet the needs for increased air service and FAA
34 regulations.

35 **SECTION 3.** Definitions. – Unless otherwise required by the context, the
36 following definitions apply throughout this act:

- 37 (1) "Basinwide Management Strategies" means rules to protect water
38 quality standards and uses as required to implement basinwide water
39 quality management plans pursuant to G.S. 143-214.1, 143-214.7,
40 143-215.3, and 143B-282 and other provisions, including the Neuse
41 Buffer Rule and any temporary or permanent rules adopted for other
42 river basins.

- 1 (2) "Commission" means the Environmental Management Commission.
2 (3) "Department" means the Department of Environment and Natural
3 Resources.
4 (4) "Disapproval Legislation" means Sections 1.1, 1.2, 1.3, 1.4, 1.6, 1.7,
5 1.8, and 1.14 of Session Law 1998-221, effective November 5, 1998.
6 (5) "Secretary" means the Secretary of Environment and Natural
7 Resources.
8 (6) "Neuse Buffer Rule" means 15A NCAC 2B.0233 (Neuse River Basin:
9 Nutrient Sensitive Waters Management Strategy: Protection and
10 Maintenance of Riparian Areas with Existing Forest Vegetation),
11 adopted as a permanent rule by the Commission effective 1 August
12 2000.

13 **SECTION 4.** Airport Facilities Defined and Work Allowed. – (a) The
14 Commission and the Department shall implement the Neuse Buffer Rule and Basinwide
15 Management Strategies as provided in this section.

16 **SECTION 4.(b)** As used in the Neuse Buffer Rule and the Basinwide
17 Management Strategies adopted as of the date of this act, the phrase "airport facilities"
18 is not defined within those rules, but the Department and the Commission shall interpret
19 the phrase "airport facilities" for purposes of interpreting and applying the Neuse Buffer
20 Rule and any Basinwide Management Strategies to have the same meaning as in G.S.
21 63-1.

22 **SECTION 4.(c)** As used in the Neuse Buffer Rule and the Basinwide
23 Management Strategies, work occurring at "airport facilities" shall be classified as
24 exempt, rather than allowable or allowable with mitigation.

25 **SECTION 5.** Revision of Neuse Buffer Rule and Basinwide Management
26 Strategies. – The Commission shall revise the Neuse Buffer Rule and any adopted
27 Basinwide Management Strategies in accordance with this act and implement them in
28 accordance with this act.

29 **SECTION 6.** Construction of act. – This act shall not be construed to
30 obligate the General Assembly to appropriate any funds to implement the provisions of
31 this act. Every State agency to which this act applies shall implement the provisions of
32 this act from funds otherwise appropriated or available to that agency.

33 **SECTION 7.** This act is effective when it becomes law.