



LEGISLATIVE REVIEW

While water and air quality will benefit from legislative action, many coastal programs remain underfunded and understaffed. The 1999 session of the NC General Assembly was a mixed blessing for the environment and the coast.

SIGNIFICANT LEGISLATION WAS ENACTED

for clean water and air, although it often appeared that the session was going to end without any substantive environmental bills passing. The appropriations picture was far less successful with most environmental programs struggling to retain past funding levels.

Clean Water Act of 1999

In the waning hours of the session, the General Assembly passed the Clean Water Act of 1999 (HB 1160). The clean water legislation was devised entirely behind closed doors by a small group of Senators. What came out was a bill that had several positive environmental impacts, although it did almost nothing to address the phase-out of animal waste lagoons and sprayfields.

The act did succeed in extending the moratorium on new and expanding hog operations until July 1, 2001. This date is notable in that the General Assembly does not have to revisit the moratorium in the next session, which would be a politically difficult task during an election year. Worth noting is that the six-month extension of the moratorium legislated in 1998 was an extremely difficult task for the General Assembly, while this 22-month add-on was politically expedient. Given the recent downturns in the swine markets, it was also a relatively painless political choice for the hog industry.

Brunswick County was added to the pilot program that allows animal operations to be inspected only by the Division of Soil and Water Conservation, instead of the Division of Water Quality (DWQ). Also on the animal waste front, the act directs the Department of Environment and Natural Resources (DENR) to perform a "risk rating" of abandoned lagoons, based upon the threat each lagoon represents to public health and the environment. The act makes an indirect reference to the Governor's phase-out plan by requiring the Environmental Management Commission (EMC) to report to the legislature's Environmental Review Commission on DENR's progress in implementing the phase-out plan.

An important feature of the act provides the EMC with quasi-temporary rule-making authority for the Catawba, the Cape Fear and the Tar-Pamlico River Basins. The EMC can now

enact temporary rules for the rapid implementation of mandatory riparian buffers and other measures to protect water quality in those river basins.

The legislation requires that all dischargers of wastewater notify the public when they have a discharge to surface waters via press releases and in some cases legal advertising. Further, the legislation increases the possible penalties for violations of water quality laws from \$10,000 to \$25,000 per day for repeat violators.

Air Quality

With prodding from the Governor's office, the General Assembly took on the issue of air quality. SB 953, Ambient Air Quality Improvements primarily addresses air pollution from automobiles, focusing on reductions in nitrates of oxygen or NOx.

NOx, along with sunlight and other compounds, causes ground level ozone. Although ozone is beneficial in the upper atmosphere, at low levels it is the biggest component of smog. High ozone levels have serious health implications for people with respiratory diseases, as well as the very young and the elderly.

The new law expands the inspection and maintenance (I/M) program for automobiles from nine counties to 48 counties by 2006, which will also test for NOx. These counties are those that are experiencing significant growth and centered around the larger metropolitan areas of the state. The Wilmington area will be phased into the inspection program in 2006.

The act also requires the sale of low sulfur gasoline in NC no later than January 1, 2004, a measure that will likely be required nationwide as well. Sulfur in gas affects the ability of catalytic converters to clean exhaust. Currently, there is no sulfur standard for gasoline, which now contains roughly 300 parts-per-million (ppm). The standard in the legislation is 30 ppm – a 90% reduction.

Appropriations

The appropriations process was a difficult one in 1999. Due to unfavorable court decisions (the *Bailey* case on retirement income and the intangibles tax issue), the State was required to pay significant settlements thereby reducing available revenues. Coupled with deep tax cuts during the last several sessions, the State was left in a fairly difficult fiscal position.

As a result of this crunch, many programs were not expanded beyond their existing levels. The DENR did not fair particularly well.

On the positive side, the Clean Water Management Trust Fund, along with the other natural resource trust funds, were fully funded at \$30 million. Early in the session, there had been some discussion in the House of deleting these funds to offset budgetary shortfalls in other areas.

New positions were added to the Division of Land Resources to improve enforcement of sedimentation and erosion control laws. These are crucial positions, especially compared to the number of projects that fall under their jurisdiction due to the substantial growth that many areas of the state, and especially the coast, are experiencing.

DWQ also received funding for staff to enforce new buffer rules, and the Groundwater Section gained staff for work on the expansion of the Capacity Use Area in the Coastal Plain. Unfortunately, no positions were added to the Division of Marine Fisheries to expand their work on Fishery Management Plans and Habitat Management Plans.

Worthy of Note

■ **SMART GROWTH:** Rampant growth and sprawl began garnering the attention of the General Assembly this year. Sen. Beverly Perdue (D-Craven) and Sen. Howard Lee (D-Orange) cosponsored a bill that included the creation of a "Smart Growth" Blue Ribbon Study Commission. The Perdue/Lee bill passed as a special provision to the budget.

■ **SEDIMENTATION AND EROSION CONTROL:** Amendments to the Sedimentation and Erosion Control Act were approved which increased the penalty for violations from \$500 to \$5,000 per day. The higher fine will hopefully push violations beyond the point of being a mere "cost of doing business" for the construction industry.

The 1999 Session of the General Assembly was remarkable for one other reason. Nothing really bad happened. While anti-environmental legislation was introduced, it didn't become law in 1999. The short session of the 1999-2000 General Assembly begins at noon on May 8, 2000. Stay tuned.

