

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 415

Short Title: Topsail Beach/Littoral Rights. (Local)

Sponsors: Representative Justice (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Government.

March 22, 2011

1 A BILL TO BE ENTITLED
2 AN ACT PRESERVING LITTORAL RIGHTS IN THE TOWN OF TOPSAIL BEACH
3 AFTER PUBLICLY FINANCED BEACH NOURISHMENT PROJECTS.

4 Whereas, the majority of properties in the Town of Topsail Beach abutting and
5 fronting on the Atlantic Ocean have been developed; and

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

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

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

17 Whereas, to that end, the Town of Topsail Beach has entered into contracts and
18 intends in the future to enter into contracts for the beach nourishment projects; and

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

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

27 Whereas, the willingness of the oceanfront property owners in the Town of Topsail
28 Beach to support and fund the beach nourishment projects will be enhanced and uncertainty
29 will be avoided if oceanfront property owners' littoral rights, including the right of direct access
30 from oceanfront property to the waters of the Atlantic Ocean, are preserved and clarified; and

31 Whereas, the Town of Topsail Beach desires to resolve any ambiguity on the littoral
32 rights and to define and provide for the littoral rights of the property owners abutting on the
33 oceanfront as they existed prior to the beach nourishment projects; Now, therefore,
34 The General Assembly of North Carolina enacts:



1 **SECTION 1.** Where land in or immediately along the Atlantic Ocean in the Town
2 of Topsail Beach has been raised above the mean high-water mark by publicly financed beach
3 nourishment projects which involve hydraulic dredging or deposition of spoil materials or sand
4 by other means, the owners of the property abutting the newly raised lands before the beach
5 nourishment projects shall, in front of their property, possess and keep the littoral rights they
6 possessed prior to the raising of lands by the beach nourishment projects, including direct
7 access to and in, as if littoral owners, the waters of the Atlantic Ocean bordering on the newly
8 raised lands.

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

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