

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 795

Short Title: Rights of Nature/Haw River. (Public)

Sponsors: Representatives Harrison, Autry, and Morey (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO RECOGNIZE AND PROTECT THE RIGHTS OF THE HAW RIVER
3 ECOSYSTEM AND TO RECOGNIZE AND PROTECT THE RIGHT OF THE PEOPLE
4 OF NORTH CAROLINA TO A HEALTHY HAW RIVER ECOSYSTEM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 77 of the General Statutes is amended by adding a new Article
7 to read:

8 "Article 11.

9 "Rights of the Haw River Ecosystem.

10 "**§ 77-145. Short title.**

11 This act shall be known and may be cited as the Rights of the Haw River Ecosystem Act.

12 "**§ 77-146. Purpose.**

13 This act recognizes and protects the rights of the Haw River ecosystem and the right of the
14 people of North Carolina to a healthy, thriving Haw River ecosystem.

15 "**§ 77-147. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) Haw River ecosystem. – The watershed of the Haw River, including both its
18 mainstem and tributaries, and all species and ecosystems found in those areas
19 or dependent on species and ecosystems found in the watershed.
20 (2) Natural resource management agencies. – The Department of Natural and
21 Cultural Resources, the Department of Environmental Quality, and the
22 Wildlife Resources Commission.

23 "**§ 77-148. Rights of the Haw River ecosystem.**

24 (a) Rights of the Haw River Ecosystem. – The Haw River ecosystem possesses rights,
25 including, but not limited to, all of the following:

- 26 (1) The right to naturally exist, flourish, regenerate, and evolve.
27 (2) The right to full restoration, recovery, and preservation.
28 (3) The right to abundant, pure, clean, unpolluted water, including the right to
29 natural surface water flow and recharge and groundwater recharge.
30 (4) The right to a healthy natural environment and natural biodiversity.
31 (5) The right to carry on all natural functions of the Haw River ecosystem.
32 (6) The right to be free of activities, practices, and any other manmade
33 obstructions that interfere with or infringe upon the rights set forth in this
34 section.



1 (b) No Conferral of Obligations. – The rights of the Haw River ecosystem protected in
2 this Article shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on
3 the Haw River ecosystem except as expressly set forth herein.

4 **"§ 77-149. Rights of the people of the State.**

5 All residents of the State possess the right to a healthy, flourishing Haw River ecosystem.

6 **"§ 77-150. Rights of indigenous people.**

7 Nothing in this Article shall abrogate the collective or individual rights of indigenous people
8 residing in the State, including, but not limited to, members of the tribes and bands identified in
9 Chapter 71A of the General Statutes.

10 **"§ 77-151. Implementation.**

11 The State shall protect the rights secured in this act by providing that natural resource
12 management agencies of the State take action to ensure these rights are guaranteed and upheld
13 as specified in this section. This includes all of the following:

14 (1) Natural resource management agencies shall not conduct, authorize, license,
15 permit, or fund any public or private activities, practices, or operations that
16 are inconsistent with, or which will or may violate or infringe upon, the rights
17 or provisions of this act.

18 (2) No later than June 30, 2024, natural resource management agencies shall:

19 a. Review their existing and proposed activities, practices, or operations,
20 as well as all agency laws, policies, rules, or regulations, to identify
21 any potential or ongoing violations of the rights or provisions of this
22 Article.

23 b. Jointly conduct a complete baseline environmental assessment of the
24 Haw River ecosystem, which shall include identification of areas
25 within the ecosystem in need of restoration, and prioritization of those
26 areas.

27 (3) No later than June 30, 2025, natural resource management agencies shall:

28 a. Remedy any potential or ongoing violation identified in subdivision
29 (2) of this section to ensure all existing or proposed policies, rule, or
30 regulations, or ongoing or proposed activities, practices, or operations,
31 are made consistent with and protective of the rights and provisions of
32 this Article.

33 b. Develop recommendations for remedying any potential or ongoing
34 violation of law identified in subdivision (2) of this section and submit
35 a report of those recommendations to the General Assembly.

36 (4) No later than June 30, 2028, complete full restoration of all areas of the Haw
37 River ecosystem identified by the assessment required by sub-subdivision
38 (2)b. of this section.

39 **"§ 77-152. Civil enforcement.**

40 (a) Enforcement by the State. – The Attorney General is authorized to enforce and defend
41 these rights by the filing of an action in the courts of this State to enjoin infringements of the
42 rights set out in this Article and collect damages for impacts to natural resources within the Haw
43 River ecosystem as described in subsection (h) of this section.

44 (b) Enforcement by the Haw River Ecosystem. – The Haw River ecosystem may enforce
45 or defend the rights secured in this act through a legal action brought in the courts of this State,
46 brought in the name of the Haw River ecosystem as the real party in interest. Remedies shall
47 include injunctive relief to enjoin the activity or project which violates the rights set forth in this
48 Article.

49 (c) Right of Intervention. – The Haw River ecosystem may also intervene in any litigation
50 authorized by this section.

1 (d) Standing. – Any citizen of the State shall have standing to both file an action in the
2 name of the ecosystem under subsection (b) of this section and to intervene in any litigation in
3 the name of the ecosystem under subsection (c) of this section.

4 (e) Enforcement by Individuals. – Any North Carolina resident may enforce or defend
5 the rights secured in this act through a legal action brought in any appropriate court. Any resident
6 may also intervene in any litigation concerning this act in order to enforce or defend it. Remedies
7 shall include injunctive relief to enjoin the activity or project which violates this act.

8 (f) Enforcement Actions and Burden of Proof. – Where probable violations of the rights
9 protected in this act are shown to exist, lack of full scientific certainty shall not be used as a
10 reason for denying or postponing enforcement or defense of these rights. The burden of proving
11 the absence of a violation of rights shall lie with the persons responsible for the infringement of
12 rights or impacts to natural resources alleged and not with the party or parties enforcing or
13 defending the rights protected in this Article.

14 (g) Civil Penalties. – Any business or government entity that violates any provision of
15 this Article shall be subject to a civil penalty of up to ten thousand dollars (\$10,000) for a single
16 occurrence, or up to five hundred dollars (\$500.00) per day of a continuing occurrence, with each
17 day constituting a separate offense under this Article. These penalties shall be trebled in cases
18 where the violation is found to be willful.

19 (h) Damages. – Any business or government entity that violates any provision of this act
20 shall be liable for any natural resource damages caused to the Haw River ecosystem as a result
21 of the violation. The measure of damages shall be the cost of fully restoring the Haw River
22 ecosystem to its state prior to the violation and shall be paid to the State to be used exclusively
23 for the restoration of the ecosystem.

24 (i) Business and Governmental Entities. – Any business entity which is shown to have
25 violated any provision of this Article shall be strictly liable and deemed not to possess any of the
26 rights, privileges, powers, or protections which would interfere with the defense or enforcement
27 of rights protected in this Article. Any defense of sovereign immunity is expressly waived with
28 respect to any governmental entity shown to have violated any provision of this Article."

29 **SECTION 2.** If any provision of this act or its application to any person or
30 circumstance is held invalid, the invalidity does not affect other provisions or applications of this
31 act that can be given effect without the invalid provision or application and, to this end, the
32 provisions of this act are severable.

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