



Lake James Environmental Association respectfully requests that the NC Senate reject **House Bill 795** which passed the House on 4/30/15 and, if really needed, replace it with legislation that would be a true update.

H795 basically “guts” **General Statute 133A Article 1**, the NC “State” Environmental Policy Act (i.e., **SEPA**), which requires state agencies to examine and document environmental impacts of state-sponsored activities that will expend NC public funds and/or use NC public land. Proponents claim that H795 updates and balances environmental considerations with business and development interests. However, several issues listed below, concerning due diligence and specific shortcomings, appear to tell a different story.

Lack of due diligence:

1. Passage was rushed for the April 30 legislation “crossover” date
2. Insufficient time was allowed for studies by relevant NC agencies to determine the bill’s environmental management implications
3. Only one minute of public comment was allowed from an important environmental spokesperson during a committee meeting to which less than an hour was devoted to this bill.
4. Some proponents argue that since there is a National Environmental Policy Act (NEPA), SEPA is unnecessary. This is false. Both acts are needed. One pertains to state projects, the other to federal projects. **Environmental protections are needed because once significant damage to the environment occurs, it takes a lot of money and often decades to repair it, if it can be repaired at all.**

Specific shortcomings of H795:

1. **§ 113A-4(2)** excludes from consideration environmental impacts that are speculative, secondary or cumulative. Speculation has never been acceptable. Scientific documentation of impacts was always required.

Secondary and cumulative impacts are scientifically measurable and should still be required. Examples of primary, secondary and cumulative effects as they would pertain to a lake are: Primary: uncontrolled water erodes land into a tributary; Secondary: silt then smothers a fish spawning bed; Cumulative: silt from multiple tributaries combines to fill in a cove, and eventually the lake.
2. **§ 113A-4(2a)** interprets an agency’s lack of comments within a specified period as “no significant impact.” Missing a deadline has nothing to do with environmental impact. It probably means that recent budget cuts affecting state agency staffing have negatively impacted their operations.
3. **§ 113A-9 Definitions** (7a) and (11). These definitions introduce two new thresholds that must be met or exceeded to require study of a project’s environmental impacts: amount of public fund expenditure and size of land involved. Neither criterion necessarily correlates with environmental impacts.

For 41 years under SEPA the important and logical criterion has been the degree of environmental impacts anticipated from a project. Shifting to thresholds of dollars and area corrupts the intent of the Environmental Policy Act. In addition, setting difficult-to-reach thresholds allows more projects to avoid initial scrutiny. This approach circumvents sound environmental policy.

4. § 113A-12 (2)-(3). The numerous new exemptions written into these sections should be eliminated. They are not based on systematic study of environmental impacts. Genuine emergency conditions might be an exception.
5. § 113A-12 (10) is especially troubling. The General Assembly exempts its own projects from environmental review, inviting conflicts of interest. The General Assembly should not be above the law.

This last exemption and the House's lack of due diligence before passing the bill, dishonor the public's trust in its stewardship of NC's resources. Please reject this deeply-flawed legislation and work for a bill that continues to protect the public's interest, not special interests.

George Johnson, President
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Additional Background Information

Articles:

<http://www.newsobserver.com/news/politics-government/state-politics/article19311273.html>

<http://www.coastalreview.org/2015/05/house-weakens-environmental-review/>

SEPA § 113A Article 1:

<http://ncleg.net/gascripts/Statutes/StatutesTOC.pl?Chapter=0113A>

House Bill 795: <http://ncleg.net/Sessions/2015/Bills/House/PDF/H795v3.pdf>