

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 371
PROPOSED COMMITTEE SUBSTITUTE H371-PCS40487-BA-8

Short Title: Agency Powers and Duties/Technical Changes.-AB

(Public)

Sponsors:

Referred to:

March 16, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY CERTAIN POWERS OF THE DEPARTMENT OF NATURAL AND
3 CULTURAL RESOURCES WITH RESPECT TO RECREATION AND FEDERAL
4 RECREATION-RELATED FUNDING AND WITH RESPECT TO THE NORTH
5 CAROLINA ZOOLOGICAL PARK, TO ADD SWORN LAW ENFORCEMENT
6 OFFICERS OF THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES
7 TO THE LIST OF OFFICERS ELIGIBLE FOR SALARY CONTINUATION FOR
8 WORKERS' COMPENSATION, AND TO CHANGE THE NAME OF THE CLEAN
9 WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND
10 WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE
11 DEPARTMENT.

12 The General Assembly of North Carolina enacts:

13
14 **STATUTORY AUTHORITY REGARDING RECREATION AND CERTAIN LAW**
15 **ENFORCEMENT OFFICER BENEFITS**

16 **SECTION 1.(a)** Subdivision (3) of G.S. 143-320 is recodified as subdivision (3a)
17 of G.S. 143B-135.44.

18 **SECTION 1.(b)** Subsections (a) and (d) of G.S. 143-323 are recodified as
19 subsections (a) and (b) of G.S. 143B-135.58, to be entitled "Additional powers and duties of the
20 Department regarding recreation."

21 **SECTION 1.(c)** G.S. 143B-135.58, as enacted by Section 1(b) of this act, reads as
22 rewritten:

23 **"§ 143B-135.58. Additional powers and duties of the Department regarding recreation.**

24 (a) Recreation. – The Department of ~~Environmental Quality~~ shall have the following
25 powers and duties with respect to recreation:

- 26 (1) To study and appraise the recreation needs of the State and to assemble and
27 disseminate information relative to recreation.
28 (2) To cooperate in the promotion and organization of local recreation systems
29 for counties, municipalities, and other political subdivisions of the State, to
30 aid them in the administration, finance, planning, personnel, coordination
31 and cooperation of recreation organizations and programs.
32 (3) To aid in recruiting, training, and placing recreation workers, and to promote
33 recreation institutes and conferences.
34 (4) To establish and promote recreation standards.
35 (5) To cooperate with appropriate State, federal, and local agencies and private
36 membership groups and commercial recreation interests in the promotion of



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1 recreation opportunities, and to represent the State in recreation conferences,
2 study groups, and other matters of recreation concern.

3 (6) To accept gifts, devises, and endowments. The funds, if given as an
4 endowment, shall be invested in securities designated by the donor, or if
5 there is no such designation, in securities in which the State sinking fund
6 may be invested. All such gifts and devises and all proceeds from such
7 invested endowments shall be used for carrying out the purposes for which
8 they were made.

9 (7) To advise agencies, departments, organizations and groups in the planning,
10 application and use of federal and State funds which are assigned or
11 administered by the State for recreation programs and services on land and
12 water recreation areas and on which the State renders advisory or other
13 recreation services or upon which the State exercises control.

14 (8) To act jointly, when advisable, with any other State, local or federal agency,
15 institution, private individual or group in order to better carry out the
16 Department's objectives and responsibilities.

17 (b) Federal Assistance. – The Department, with the approval of the Governor, may
18 apply for and accept grants from the federal government and its agencies and from any
19 foundation, corporation, association, or individual, and may comply with the terms, conditions,
20 and limitations of the grant, in order to accomplish any of the purposes of the Department.
21 Grant funds shall be expended pursuant to the ~~Executive Budget Act~~, State Budget Act. The
22 Director of the Department's Division of Parks and Recreation shall be designated as having the
23 authority and responsibility to accept and administer funding through the federal Land and
24 Water Conservation Fund or any successor fund established for similar purposes, and the
25 Secretary may designate additional personnel to assist the Director in the responsibilities
26 imposed by this subsection."

27 **SECTION 1.(d)** G.S. 143-166.13(a) reads as rewritten:

28 "**§ 143-166.13. Persons entitled to benefits under Article.**

29 (a) The following persons who are subject to the Criminal Justice Training and
30 Standards Act are entitled to benefits under this Article:

31 ...

32 (21) Sworn State Law Enforcement Officers with the power of arrest, Department
33 of Natural and Cultural Resources."

34 **ZOOLOGICAL PARK STATUTORY AUTHORITY**

35 **SECTION 2.(a)** The title of Part 39 of Article 2 of Chapter 143B of the General
36 Statutes reads as rewritten:

37 "~~North Carolina Zoological Park Council~~.~~Park.~~"

38 **SECTION 2.(b)** Part 39 of Article 2 of Chapter 143B of the General Statutes, as
39 amended by subsection (a) of this section, is amended by adding a new section to read:

40 "**§ 143B-135.204. Powers and duties of the Secretary.**

41 (a) Operation of Park. – The Secretary of the Department of Natural and Cultural
42 Resources may adopt rules governing the operation of the Zoological Park, including rules
43 regulating its use and enjoyment by the public. Nothing in this subsection is intended to limit
44 the power of the North Carolina Zoological Park Council to establish and set admissions fees as
45 set forth in G.S. 143B-135.205.

46 (b) Park Property. – The Secretary of the Department of Natural and Cultural Resources
47 may acquire, dispose of, and develop Zoological Park property, both real and personal. A sale,
48 lease, or trade under this subsection must be conducted in accordance with generally accepted
49 practices for zoos and aquariums that are accredited by the American Association of Zoos and
50 Aquariums."

RENAME CLEAN WATER MANAGEMENT TRUST FUND

SECTION 3.(a) Part 41 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"Part 41. ~~Clean Water Management~~ Land and Water Preservation Trust Fund.

"§ 143B-135.230. Purpose.

It is the intent of the General Assembly that moneys from the Fund created under this Part shall be used to help finance projects that enhance or restore degraded surface waters; protect and conserve surface waters, including drinking supplies, and contribute toward a network of riparian buffers and greenways for environmental, educational, and recreational benefits; provide buffers around military bases to protect the military mission; acquire land that represents the ecological diversity of North Carolina; and acquire land that contributes to the development of a balanced State program of historic properties.

"§ 143B-135.232. Definitions.

The following definitions apply in this Part:

- (1) Council. – The advisory council for the ~~Clean Water Management~~ Land and Water Preservation Trust Fund.
- (2) Fund. – The ~~Clean Water Management~~ Land and Water Preservation Trust Fund created pursuant to this Part.
- (3) Land. – Real property and any interest in, easement in, or restriction on real property.
- (4) Local government unit. – Defined in G.S. 159G-20.
- (5) Trustees. – The trustees of the ~~Clean Water Management~~ Land and Water Preservation Trust Fund.

"§ 143B-135.234. ~~Clean Water Management~~ Land and Water Preservation Trust Fund.

(a) Fund Established. – The ~~Clean Water Management~~ Land and Water Preservation Trust Fund is established as a special revenue fund to be administered by the Department of Environmental Quality. The Fund receives revenue from the following sources and may receive revenue from other sources:

- (1) Annual appropriations.
- (2) Special registration plates under G.S. 20-81.12.
- (3) Other special registration plates under G.S. 20-79.7.

...

"§ 143B-135.236. North Carolina Conservation Easement Endowment Fund.

(a) The North Carolina Conservation Easement Endowment Fund is established as a special fund in the Office of the State Treasurer. The principal of the Endowment Fund shall consist of a portion of grant funds transferred by the Trustees to the Endowment Fund from the ~~Clean Water Management~~ Land and Water Preservation Trust Fund for stewardship activities related to projects for conservation easements funded from the ~~Clean Water Management~~ Land and Water Preservation Trust Fund. The principal of the Endowment Fund may also consist of any proceeds of any gifts, grants, or contributions to the State that are specifically designated for inclusion in the Endowment Fund and any investment income that is not used in accordance with subsection (b) of this section. The State Treasurer shall hold the Endowment Fund separate and apart from all other moneys, funds, and accounts. The State Treasurer shall invest the assets of the Endowment Fund in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. The State Treasurer shall disburse the endowment investment income only upon the written direction of the Chair of the Board of Trustees. No expenditure or disbursement shall be made from the principal of the Endowment Fund.

(b) The Trustees may authorize the disbursement of the endowment investment income only for activities related to stewardship of conservation easements owned by the State.

...

1 **"§ 143B-135.240. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**
2 **Board of Trustees established; membership qualifications; vacancies; meetings**
3 **and meeting facilities.**

4 (a) Board of Trustees Established. – There is established the ~~Clean Water Management~~
5 Land and Water Preservation Trust Fund Board of Trustees. The ~~Clean Water Management~~
6 Land and Water Preservation Trust Fund Board of Trustees shall be administratively located
7 within the Department of Natural and Cultural Resources.

8 (b) Membership. – The ~~Clean Water Management~~ Land and Water Preservation Trust
9 Fund Board of Trustees shall be composed of nine members appointed to three-year terms as
10 follows:

- 11 (1) One member appointed by the Governor to a term that expires on July 1 of
12 years that precede by one year those years that are evenly divisible by three.
- 13 (2) One member appointed by the Governor to a term that expires on July 1 of
14 years that follow by one year those years that are evenly divisible by three.
- 15 (3) One member appointed by the Governor to a term that expires on July 1 of
16 years that are evenly divisible by three.
- 17 (4) One member appointed by the General Assembly upon the recommendation
18 of the President Pro Tempore of the Senate to a term that expires on July 1
19 of years that precede by one year those years that are evenly divisible by
20 three.
- 21 (5) One member appointed by the General Assembly upon the recommendation
22 of the President Pro Tempore of the Senate to a term that expires on July 1
23 of years that follow by one year those years that are evenly divisible by
24 three.
- 25 (6) One member appointed by the General Assembly upon the recommendation
26 of the President Pro Tempore of the Senate to a term that expires on July 1
27 of years that are evenly divisible by three.
- 28 (7) One member appointed by the General Assembly upon the recommendation
29 of the Speaker of the House of Representatives to a term that expires on July
30 1 of years that precede by one year those years that are evenly divisible by
31 three.
- 32 (8) One member appointed by the General Assembly upon the recommendation
33 of the Speaker of the House of Representatives to a term that expires on July
34 1 of years that follow by one year those years that are evenly divisible by
35 three.
- 36 (9) One member appointed by the General Assembly upon the recommendation
37 of the Speaker of the House of Representatives to a term that expires on July
38 1 of years that are evenly divisible by three.

39 ...
40 **"§ 143B-135.242. ~~Clean Water Management~~ Land and Water Preservation Trust Fund**
41 **Board of Trustees: powers and duties.**

42 ...
43 **"§ 143B-135.244. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**
44 **reporting requirement.**

45 ...
46 **"§ 143B-135.246. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**
47 **Executive Director and staff.**

48 The Secretary of Natural and Cultural Resources shall select and appoint a competent
49 person in accordance with this section as Executive Director of the ~~Clean Water Management~~
50 Land and Water Preservation Trust Fund Board of Trustees. The Executive Director shall be
51 charged with the supervision of all activities under the jurisdiction of the Trustees and shall

1 serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary
2 of Natural and Cultural Resources, the Executive Director may employ such clerical and other
3 assistants as may be deemed necessary.

4 The person selected as Executive Director shall have had training and experience in
5 conservation, protection, and management of surface water resources. The salary of the
6 Executive Director shall be fixed by the Secretary of Natural and Cultural Resources, and the
7 Executive Director shall be allowed travel and subsistence expenses in accordance with
8 G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The
9 term of office of the Executive Director shall be at the pleasure of the Secretary of Natural and
10 Cultural Resources.

11 These employees shall be exempt from the North Carolina Human Resources Act, as
12 provided in G.S. 126-5(c1).

13 **"§ 143B-135.248. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**
14 **Advisory Council.**

15 There is established the ~~Clean Water Management~~ Land and Water Preservation Trust Fund
16 Advisory Council. The Council shall advise the Trustees with regard to allocations made from
17 the Fund, and other issues as requested by the Trustees. The Council shall be composed of the
18 following or its designees:

- 19 (1) Commissioner of Agriculture.
- 20 (2) Chair of the Wildlife Resources Commission.
- 21 (3) Secretary of Environmental Quality.
- 22 (4) Secretary of the Department of Commerce.
- 23 (5) Secretary of Natural and Cultural Resources."

24 **SECTION 3.(b)** The Revisor of Statutes may conform names and titles changed by
25 this section and may correct statutory references to the Clean Water Management Trust Fund
26 throughout the General Statutes to effect the change to the name of the Clean Water
27 Management Trust Fund made by this section. In making the changes authorized by this
28 section, the Revisor may also adjust subject and verb agreement and the placement of
29 conjunctions.

30 **SECTION 3.(c)** This section becomes effective January 1, 2018.

31 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
32 law.