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HOUSE BILL DRH40216-MH-75 (03/06)

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

Sponsors: Representatives McGrady, McNeill, and Hurley (Primary Sponsors).

Referred to:

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 AND TO CHANGE THE NAME OF THE CLEAN  
6 WATER MANAGEMENT TRUST FUND TO THE NORTH CAROLINA LAND AND  
7 WATER PRESERVATION TRUST FUND, AS RECOMMENDED BY THE  
8 DEPARTMENT.

9 The General Assembly of North Carolina enacts:

10  
11 **STATUTORY AUTHORITY REGARDING RECREATION**

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

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

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

19 **"§ 143B-135.58. Additional powers and duties of the Department regarding recreation.**

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

- 22 (1) To study and appraise the recreation needs of the State and to assemble and  
23 disseminate information relative to recreation.  
24 (2) To cooperate in the promotion and organization of local recreation systems  
25 for counties, municipalities, and other political subdivisions of the State, to  
26 aid them in the administration, finance, planning, personnel, coordination  
27 and cooperation of recreation organizations and programs.  
28 (3) To aid in recruiting, training, and placing recreation workers, and to promote  
29 recreation institutes and conferences.  
30 (4) To establish and promote recreation standards.  
31 (5) To cooperate with appropriate State, federal, and local agencies and private  
32 membership groups and commercial recreation interests in the promotion of  
33 recreation opportunities, and to represent the State in recreation conferences,  
34 study groups, and other matters of recreation concern.  
35 (6) To accept gifts, devises, and endowments. The funds, if given as an  
36 endowment, shall be invested in securities designated by the donor, or if



1 there is no such designation, in securities in which the State sinking fund  
2 may be invested. All such gifts and devises and all proceeds from such  
3 invested endowments shall be used for carrying out the purposes for which  
4 they were made.

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

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

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

## 24 ZOOLOGICAL PARK STATUTORY AUTHORITY

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

27 "North Carolina Zoological Park Council, Park."

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

### 30 "§ 143B-135.204. Administration of the North Carolina Zoological Park.

31 (a) The Secretary of the Department of Natural and Cultural Resources shall have the  
32 authority to administer the operations of the North Carolina Zoological Park. The Secretary's  
33 powers and duties include, but are not limited to, the following:

34 (1) To adopt goals and objectives for the Zoological Park.

35 (2) To advise the Zoological Park Director on the goals and objectives of the  
36 Zoological Park.

37 (3) To adopt reasonable rules governing the operation of the Zoological Park,  
38 including rules regulating its use and enjoyment by the public. Nothing in  
39 this subdivision is intended to limit the power of the North Carolina  
40 Zoological Park Council to establish and set admissions fees as set forth in  
41 G.S. 143B-135.205.

42 (4) To acquire, dispose of, and develop Zoological Park property, both real and  
43 personal, in accordance with the Secretary's goals and objectives."  
44

## 45 RENAME CLEAN WATER MANAGEMENT TRUST FUND

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

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

### 49 "§ 143B-135.230. Purpose.

50 It is the intent of the General Assembly that moneys from the Fund created under this Part  
51 shall be used to help finance projects that enhance or restore degraded surface waters; protect

1 and conserve surface waters, including drinking supplies, and contribute toward a network of  
2 riparian buffers and greenways for environmental, educational, and recreational benefits;  
3 provide buffers around military bases to protect the military mission; acquire land that  
4 represents the ecological diversity of North Carolina; and acquire land that contributes to the  
5 development of a balanced State program of historic properties.

6 **"§ 143B-135.232. Definitions.**

7 The following definitions apply in this Part:

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

17 **"§ 143B-135.234. ~~Clean Water Management Land and Water Preservation Trust Fund.~~**

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

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

25 ...

26 **"§ 143B-135.236. North Carolina Conservation Easement Endowment Fund.**

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

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

43 ...

44 **"§ 143B-135.240. ~~Clean Water Management Land and Water Preservation Trust Fund:~~**  
45 **Board of Trustees established; membership qualifications; vacancies; meetings**  
46 **and meeting facilities.**

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

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

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

32 ...  
 33 **"§ 143B-135.242. ~~Clean Water Management~~ Land and Water Preservation Trust Fund**  
 34 **Board of Trustees: powers and duties.**

35 ...  
 36 **"§ 143B-135.244. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**  
 37 **reporting requirement.**

38 ...  
 39 **"§ 143B-135.246. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:**  
 40 **Executive Director and staff.**

41 The Secretary of Natural and Cultural Resources shall select and appoint a competent  
 42 person in accordance with this section as Executive Director of the ~~Clean Water Management~~  
 43 Land and Water Preservation Trust Fund Board of Trustees. The Executive Director shall be  
 44 charged with the supervision of all activities under the jurisdiction of the Trustees and shall  
 45 serve as the chief administrative officer of the Trustees. Subject to the approval of the Secretary  
 46 of Natural and Cultural Resources, the Executive Director may employ such clerical and other  
 47 assistants as may be deemed necessary.

48 The person selected as Executive Director shall have had training and experience in  
 49 conservation, protection, and management of surface water resources. The salary of the  
 50 Executive Director shall be fixed by the Secretary of Natural and Cultural Resources, and the  
 51 Executive Director shall be allowed travel and subsistence expenses in accordance with

1 G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The  
2 term of office of the Executive Director shall be at the pleasure of the Secretary of Natural and  
3 Cultural Resources.

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

6 **"§ 143B-135.248. ~~Clean Water Management~~ Land and Water Preservation Trust Fund:  
7 Advisory Council.**

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

- 12 (1) Commissioner of Agriculture.
- 13 (2) Chair of the Wildlife Resources Commission.
- 14 (3) Secretary of Environmental Quality.
- 15 (4) Secretary of the Department of Commerce.
- 16 (5) Secretary of Natural and Cultural Resources."

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

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

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