

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS65047-LG-94 (3/21)

Short Title: NC Conservation Trust Fund Commission. (Public)

Sponsors: Senators Rouzer, East, and Jackson (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT ESTABLISHING THE CONSERVATION TRUST FUND COMMISSION AND
3 TRANSFERRING THE DUTIES OF THE AGRICULTURAL DEVELOPMENT AND
4 FARMLAND PRESERVATION TRUST FUND ADVISORY COMMITTEE, THE
5 NATURAL HERITAGE TRUST FUND BOARD OF TRUSTEES, AND THE CLEAN
6 WATER MANAGEMENT TRUST FUND BOARD OF TRUSTEES TO THE
7 CONSERVATION TRUST FUND COMMISSION.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Chapter 113A of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 19.

12 "Conservation Trust Fund Commission.

13 **"§ 113A-261. Conservation Trust Fund Commission: members; selection; compensation;
14 meetings.**

15 (a) Commission Established. – There is established the North Carolina Conservation
16 Trust Fund Commission. The Commission shall be administratively located within the
17 Department of Environment and Natural Resources but shall operate independently of the
18 Department.

19 (b) Membership. – The Commission shall consist of 15 members. The Secretary of the
20 Department of Environment and Natural Resources and the Commissioner of Agriculture or
21 their designees shall serve as ex officio nonvoting members of the Commission. The Secretary
22 of Commerce, the Secretary of Cultural Resources, the Executive Director of the Wildlife
23 Resources Commission, and the Chair of the State Advisory Commission on Military Affairs or
24 their designees shall serve as ex officio voting members of the Commission. The remaining
25 members shall be appointed as follows:

- 26 (1) One member appointed by the Governor from the public at large.
27 (2) One member appointed by the General Assembly upon the recommendation
28 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,
29 from the public at large.
30 (3) One member appointed by the General Assembly upon the recommendation
31 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,
32 who shall, at the time of appointment, be actively connected with or have
33 experience in agriculture.
34 (4) One member appointed by the General Assembly upon the recommendation
35 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,



- 1 who shall, at the time of appointment, have experience in environmental
2 management.
- 3 (5) One member appointed by the General Assembly upon the recommendation
4 of the President Pro Tempore of the Senate, as provided in G.S. 120-121,
5 who shall, at the time of appointment, be actively connected with or have
6 experience with park and recreation issues in the State.
- 7 (6) One member appointed by the General Assembly upon the recommendation
8 of the Speaker of the House of Representatives, as provided in G.S. 120-121,
9 from the public at large.
- 10 (7) One member appointed by the General Assembly upon the recommendation
11 of the Speaker of the House of Representatives, as provided in G.S. 120-121,
12 who shall, at the time of appointment, be actively connected with or have
13 had experience in the fish and wildlife conservation or habitat protection
14 activities of the State.
- 15 (8) One member appointed by the General Assembly upon the recommendation
16 of the Speaker of the House of Representatives, as provided in G.S. 120-121,
17 who shall, at the time of appointment, be actively connected with or have
18 experience in soil and water conservation.
- 19 (9) One member appointed by the General Assembly upon the recommendation
20 of the Speaker of the House of Representatives, as provided in G.S. 120-121,
21 who shall, at the time of appointment, be actively connected with or have
22 experience in forestry.
- 23 (c) Terms. – Beginning August 1, 2012, members shall be appointed to the Commission
24 for terms of four years. Members appointed to the Commission shall serve no more than two
25 consecutive four-year terms.
- 26 (d) Vacancies. – An appointment to fill a vacancy on the Commission created by the
27 resignation, removal, disability, or death of a member shall be for the balance of the unexpired
28 term.
- 29 (e) Cochairs. – The Secretary of the Department of Environment and Natural Resources
30 and the Commissioner of Agriculture, or their designees, shall serve as cochaairs of the
31 Commission.
- 32 (f) Quorum. – A majority of the membership of the Commission constitutes a quorum
33 for the transaction of business.
- 34 (g) Per Diem and Expenses. – Each member of the Commission shall receive per diem
35 and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5.
36 Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Clean Water
37 Management Trust Fund.
- 38 (h) Meetings. – The Commission shall meet at least quarterly at a time and place
39 designated by the cochaairs and may hold special meetings at the call of the cochaairs or a
40 majority of the members. The Secretary of Environment and Natural Resources shall provide
41 meeting facilities for the Commission and its staff as requested by the cochaairs.
- 42 **"§ 113A-262. Conservation Trust Fund Commission: powers and duties.**
- 43 (a) The Commission may allocate moneys from the Clean Water Management Trust
44 Fund established by Article 18 of this Chapter.
- 45 (b) The Commission may authorize expenditures from the Natural Heritage Trust Fund
46 under Article 5A of Chapter 113 of the General Statutes.
- 47 (c) The Commission shall advise the Commissioner of Agriculture at least annually on
48 the prioritization and allocation of funds, the development of criteria for awarding funds,
49 program planning, and other areas where monies from the North Carolina Agricultural
50 Development and Farmland Preservation Trust Fund established by G.S. 106-744 can be used
51 to promote the growth and development of family farms in North Carolina.

1 (d) The Commission may receive public and private donations, appropriations, grants,
2 and revenues for deposit into the Parks and Recreation Trust Fund established by
3 G.S. 113-44.15(e) and to allocate funds from the Fund for land acquisition, repairs,
4 renovations, improvements, construction, and other capital projects at units of the State Parks
5 System.

6 (e) The Commission may acquire land by purchase, negotiation, gift, or devise. Any
7 acquisition of land by the Commission must be reviewed and approved by the Council of State
8 and the deed for the land subject to approval of the Attorney General before the acquisition can
9 become effective. In determining whether to acquire land as permitted by Article 18 of this
10 Chapter, the Commission shall consider whether the acquisition furthers the purposes of Article
11 18 of this Chapter and may also consider recommendations from the Council. Nothing in this
12 section shall allow the Commission to acquire land under the right of eminent domain.

13 (f) The Commission may exchange any land it acquires under Article 18 of this
14 Chapter in carrying out the powers conferred on the Commission by that Article.

15 (g) The Commission may designate managers or managing agencies of the lands
16 acquired under Article 18 of this Chapter.

17 (h) Tax Credit Certification. – The Commission shall develop guidelines to determine
18 whether land donated for a tax credit under G.S. 105-130.34 or G.S. 105-151.12 is suitable for
19 one of the purposes under Article 18 of this Chapter and may be certified for a tax credit.

20 (i) Rule-Making Authority. – The Commission may adopt rules to implement this
21 Article and powers conferred upon it by any other provision of the General Statutes. Chapter
22 150B of the General Statutes applies to the adoption of rules by the Commission."

23 **SECTION 2.** G.S. 106-744 reads as rewritten:

24 **"§ 106-744. Purchase of agricultural conservation easements; establishment of North**
25 **Carolina Agricultural Development and Farmland Preservation Trust Fund**
26 **and Advisory Committee.Fund.**

27 ...

28 (g) ~~There is established the Agricultural Development and Farmland Preservation Trust~~
29 ~~Fund Advisory Committee. The Advisory Committee shall be administratively located within~~
30 ~~the Department of Agriculture and Consumer Services and shall advise the Commissioner on~~
31 ~~the prioritization and allocation of funds, the development of criteria for awarding funds,~~
32 ~~program planning, and other areas where monies from the Trust Fund can be used to promote~~
33 ~~the growth and development of family farms in North Carolina. The Advisory Committee shall~~
34 ~~be composed of 19 members as follows:~~

- 35 (1) ~~The Commissioner of Agriculture or the Commissioner's designee, who shall~~
36 ~~serve as the Chair of the Advisory Committee.~~
- 37 (2) ~~The Secretary of Commerce or the Secretary's designee.~~
- 38 (3) ~~The Secretary of Environment and Natural Resources or the Secretary's~~
39 ~~designee.~~
- 40 (4) ~~Three practicing farmers, one appointed by the Governor, one appointed by~~
41 ~~the President Pro Tempore of the Senate, and one appointed by the Speaker~~
42 ~~of the House of Representatives.~~
- 43 (5) ~~The Dean of the College of Agriculture and Life Sciences at North Carolina~~
44 ~~State University or the Dean's designee.~~
- 45 (6) ~~The Dean of the School of Agriculture and Environmental Sciences at North~~
46 ~~Carolina Agricultural and Technical State University or the Dean's designee.~~
- 47 (7) ~~The Executive Director of the North Carolina Rural Economic Development~~
48 ~~Center, Inc., or the Executive Director's designee.~~
- 49 (8) ~~The Executive Director of the Conservation Trust for North Carolina or the~~
50 ~~Executive Director's designee.~~

- 1 (9) ~~The Executive Director of the North Carolina Farm Transition Network or~~
2 ~~the Executive Director's designee.~~
- 3 (10) ~~The President of the North Carolina Association of Soil and Water~~
4 ~~Conservation Districts or the President's designee.~~
- 5 (11) ~~The Executive Director of the Rural Advancement Foundation International~~
6 ~~—USA or the Executive Director's designee.~~
- 7 (12) ~~The Executive Director of the North Carolina Agribusiness Council or the~~
8 ~~Executive Director's designee.~~
- 9 (13) ~~The President of the North Carolina State Grange or the President's designee.~~
- 10 (14) ~~The President of the North Carolina Farm Bureau Federation, Inc., or the~~
11 ~~President's designee.~~
- 12 (15) ~~The President of the North Carolina Black Farmers and Agriculturalists~~
13 ~~Association or the President's designee.~~
- 14 (16) ~~The President of the North Carolina Forestry Association or the President's~~
15 ~~designee.~~
- 16 (17) ~~The Executive Director of the North Carolina Association of County~~
17 ~~Commissioners or the Executive Director's designee.~~

18 (h) ~~The Advisory Committee shall meet at least quarterly. The Department of~~
19 ~~Agriculture and Consumer Services shall provide the Advisory Committee with administrative~~
20 ~~and secretarial staff. Members of the Advisory Committee shall be entitled to per diem~~
21 ~~pursuant to G.S. 138-5 or G.S. 138-6, as appropriate. The Advisory Committee shall make~~
22 ~~recommendations to the Commissioner on the distribution of monies from the Trust Fund at~~
23 ~~least annually. The Commissioner shall take the recommendations of the Advisory~~
24 ~~Committee~~North Carolina Conservation Trust Fund Commission ~~into consideration in making~~
25 ~~decisions on the distribution of monies from the Trust Fund.~~

26 (i) ~~The Advisory Committee shall report no later than October 1 of each year to the~~
27 ~~Joint Legislative Commission on Governmental Operations, the Environmental Review~~
28 ~~Commission, and the House of Representatives and Senate Appropriations Subcommittees on~~
29 ~~Natural and Economic Resources regarding the activities of the Advisory Committee, the~~
30 ~~agriculture easements purchased, and agricultural projects funded during the previous year."~~

31 **SECTION 3.** G.S. 113-44.15 reads as rewritten:

32 "**§ 113-44.15. Parks and Recreation Trust Fund.**

33 (a) Fund Created. – There is established a Parks and Recreation Trust Fund in the State
34 Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund consisting of
35 gifts and grants to the Trust Fund, monies credited to the Trust Fund pursuant to
36 G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the General Assembly.
37 Investment earnings credited to the assets of the Fund shall become part of the Fund.

38 (b) Use. – Funds in the Trust Fund are annually appropriated to the ~~North Carolina~~
39 ~~Parks and Recreation Authority~~North Carolina Conservation Trust Fund Commission and,
40 unless otherwise specified by the General Assembly or the terms or conditions of a gift or
41 grant, shall be allocated and used as follows:

- 42 (1) Sixty-five percent (65%) for the State Parks System for capital projects,
43 repairs and renovations of park facilities, and land acquisition, and to retire
44 debt incurred for these purposes under Article 9 of Chapter 142 of the
45 General Statutes.
- 46 (2) Thirty percent (30%) to provide matching funds to local governmental units
47 or public authorities as defined in G.S. 159-7 on a dollar-for-dollar basis for
48 local park and recreation purposes. The appraised value of land that is
49 donated to a local government unit or public authority may be applied to the
50 matching requirement of this subdivision. These funds shall be allocated by
51 the ~~North Carolina Parks and Recreation Authority~~North Carolina

1 Conservation Trust Fund Commission based on criteria patterned after the
2 Open Project Selection Process established for the Land and Water
3 Conservation Fund administered by the National Park Service of the United
4 States Department of the Interior.

5 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access
6 Program.

7 (b1) Geographic Distribution. – In allocating funds in the Trust Fund under this section,
8 ~~the North Carolina Parks and Recreation Authority~~ North Carolina Conservation Trust Fund
9 Commission shall make geographic distribution across the State to the extent practicable.

10 (b2) Administrative Expenses. – Of the funds appropriated to the ~~North Carolina Parks~~
11 ~~and Recreation Authority~~ North Carolina Conservation Trust Fund Commission from the Trust
12 Fund each year, no more than three percent (3%) may be used by the Department for operating
13 expenses associated with managing capital improvements projects, acquiring land, and
14 administration of local grants programs.

15 (b3) Operating Expenses for State Parks System Allocations. – In allocating funds in the
16 Trust Fund under subdivision (1) of subsection (b) of this section, the ~~North Carolina Parks and~~
17 ~~Recreation Authority~~ North Carolina Conservation Trust Fund Commission shall consider the
18 operating expenses associated with each capital project, repair and renovation project, and each
19 land acquisition. In considering the operating expenses, the North Carolina Parks and
20 Recreation Authority shall determine both:

21 (1) The minimal anticipated operating expenses, which are determined by the
22 minimum staff and other operating expenses needed to maintain the project.

23 (2) The optimal anticipated operating budget, which is determined by the level
24 of staff and other operating expenses required to achieve a more satisfactory
25 level of operation under the project.

26 (e) ~~Reports.~~ ~~The North Carolina Parks and Recreation Authority shall report no later~~
27 ~~than October 1 of each year to the Joint Legislative Commission on Governmental Operations,~~
28 ~~the House and Senate Appropriations Subcommittees on Natural and Economic Resources, the~~
29 ~~Fiscal Research Division, and the Environmental Review Commission on allocations from the~~
30 ~~Trust Fund from the prior fiscal year. For funds allocated from the Trust Fund under~~
31 ~~subdivision (b1) [subsection (b1)] of this section, this report shall include the operating~~
32 ~~expenses determined under subdivisions (1) and (2) of subsection (b3) of this section.~~

33 (d) Debt. – The ~~Authority~~ Commission may allocate up to fifty percent (50%) of the
34 portion of the annual appropriation identified in subdivision (b)(1) of this section to reimburse
35 the General Fund for debt service on special indebtedness to be issued or incurred under Article
36 9 of Chapter 142 of the General Statutes for the purposes provided in subdivision (b)(1) of this
37 section and for waterfront access. In order to allocate funds for debt service reimbursement, the
38 ~~Authority~~ Commission must identify to the State Treasurer the specific parks projects for which
39 it would like special indebtedness to be issued or incurred and the annual amount it intends to
40 make available, and request the State Treasurer to issue or incur the indebtedness. After special
41 indebtedness has been issued or incurred for a parks project requested by the
42 ~~Authority~~ Commission, the ~~Authority~~ Commission must credit to the General Fund each year
43 the actual aggregate principal and interest payments to be made in that year on the special
44 indebtedness, as identified by the State Treasurer."

45 **SECTION 4.** G.S. 113-77.6 reads as rewritten:

46 "**§ 113-77.6. Definitions.**

47 As used in this Article:

48 (1) "Appraised value" means the price estimated in terms of money at which the
49 property would change hands between a willing and financially able buyer
50 and a willing seller, neither being under any compulsion to buy or sell and

1 both having reasonable knowledge of the uses to which the property is
2 adapted and for which it is capable of being used.

3 (2) "Fund" means the Natural Heritage Trust Fund created pursuant to this
4 Article.

5 (3) "Land" and "lands" mean real property and any interest in, easement in, or
6 restriction on real property.

7 (4) "Secretary" means the Secretary of Environment and Natural Resources.

8 (5) "Trustees" means ~~the trustees of the Natural Heritage Trust Fund~~ the
9 members of the North Carolina Conservation Trust Fund Commission.

10 **SECTION 5.** G.S. 113A-252 reads as rewritten:

11 **"§ 113A-252. Definitions.**

12 The following definitions apply in this Article:

13 (1) Council. – The advisory council for the Clean Water Management Trust
14 Fund.

15 (2) Economically distressed local government unit. – An economically
16 distressed county, as defined in G.S. 143B-437.01, or a local government
17 unit located in that county.

18 (3) Fund. – The Clean Water Management Trust Fund created pursuant to this
19 Article.

20 (4) Land. – Real property and any interest in, easement in, or restriction on real
21 property.

22 (4a) Local government unit. – Defined in G.S. 159G-20.

23 (4b) Stormwater quality project. – Defined in G.S. 159G-20.

24 (5) Trustees. – ~~The trustees of the Clean Water Management Trust~~
25 ~~Fund~~ members of the North Carolina Conservation Trust Fund Commission.

26 (6) Wastewater collection system. – Defined in G.S. 159G-20.

27 (7) Wastewater treatment works. – Defined in G.S. 159G-20."

28 **SECTION 6.** G.S. 113A-254 reads as rewritten:

29 **"§ 113A-254. Grant requirements.**

30 ...

31 (g) Develop Grant Criteria. – The Trustees shall develop criteria for awarding grants
32 under this Article. The criteria developed shall include consideration of the following:

33 (1) The significant enhancement and conservation of water quality in the State.

34 (2) The objectives of the basinwide management plans for the State's river
35 basins and watersheds.

36 (3) The promotion of regional integrated ecological networks insofar as they
37 affect water quality.

38 (4) The specific areas targeted as being environmentally sensitive.

39 (5) The geographic distribution of funds as appropriate.

40 (6) The preservation of water resources with significant recreational or
41 economic value and uses.

42 (7) The development of a network of riparian buffer-greenways bordering and
43 connecting the State's waterways that will serve environmental, educational,
44 and recreational uses.

45 (8) The strategic acquisition of conservation easements or fee simple purchase
46 of buffer areas immediately adjacent to military installations.

47 (h) Develop Additional Guidelines. – The Trustees may develop guidelines in addition
48 to the grant criteria consistent with and as necessary to implement this Article.

49 (i) Debt. – Of the funds credited annually to the Fund, the Trustees may authorize
50 expenditure of a portion to reimburse the General Fund for debt service on special indebtedness
51 to be issued or incurred under Article 9 of Chapter 142 of the General Statutes for the purposes

1 provided in G.S. 113A-253(c)(1) through (4). In order to authorize expenditure of funds for
2 debt service reimbursement, the Trustees must identify to the State Treasurer and the
3 Department of Administration the specific capital projects for which they would like special
4 indebtedness to be issued or incurred and the annual amount they intend to make available, and
5 request the State Treasurer to issue or incur the indebtedness. After special indebtedness has
6 been issued or incurred for a capital project requested by the Trustees, the Trustees must direct
7 the State Treasurer to credit to the General Fund each year the actual aggregate principal and
8 interest payments to be made in that year on the special indebtedness, as identified by the State
9 Treasurer."

10 **SECTION 7.** G.S. 120-123(67) reads as rewritten:

11 **"§ 120-123. Service by members of the General Assembly on certain boards and**
12 **commissions.**

13 No member of the General Assembly may serve on any of the following boards or
14 commissions:

15 ...

16 ~~(67) The Board of Trustees of the Natural Heritage Trust Fund, as established by~~
17 ~~G.S. 113-77.8.~~

18"

19 **SECTION 8.** Employees currently assigned as staff to the Clean Water
20 Management Trust Fund Board of Trustees, the Natural Heritage Trust Fund Board of Trustees,
21 and the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee
22 shall be transferred to the North Carolina Conservation Trust Fund Commission established by
23 Section 1 of this act. Employees of the Division of Parks and Recreation of the Department of
24 Environment and Natural Resources with assigned duties related to the North Carolina Parks
25 and Recreation Trust Fund Authority shall provide support as needed to the Commission for its
26 duties related to the Parks and Recreation Trust Fund.

27 **SECTION 9.(a)** G.S. 113-77.8, 113A-255, 113A-256, 143B-313.1, and
28 143B-313.2 are repealed.

29 **SECTION 9.(b)** The Agricultural Development and Farmland Preservation
30 Advisory Committee, the Natural Heritage Trust Fund Board of Trustees, and the Clean Water
31 Management Trust Fund Board of Trustees are abolished on the effective date of this act, and
32 the terms of the members currently serving on those boards expire on the effective date of this
33 act.

34 **SECTION 10.** Notwithstanding G.S. 113A-261(b), as enacted by Section 1 of this
35 act, an interim board shall be appointed to serve on the North Carolina Conservation Trust
36 Fund Commission to perform the duties of the Commission until a permanent board is
37 appointed. The interim board shall consist of 14 members. The Secretary of the Department of
38 Environment and Natural Resources and the Commissioner of Agriculture or their designees
39 shall serve as ex officio nonvoting members of the Commission. The Secretary of Commerce,
40 the Secretary of Cultural Resources, the Executive Director of the Wildlife Resources
41 Commission, and the Chair of the State Advisory Commission on Military Affairs, or their
42 designees, shall serve as ex officio voting members. The chairs of the Natural Heritage Trust
43 Fund Board of Trustees, the Clean Water Management Trust Fund Board of Trustees, and the
44 North Carolina Parks and Recreation Authority, all of whom were serving as chair of their
45 respective boards prior to the effective date of this act, shall serve on the interim board, and
46 each chair shall appoint one member to the interim board from his or her respective board, all
47 of whom shall have served on those boards prior to the effective date of this act. Two members
48 shall be appointed to the interim board by the Commissioner of Agriculture from the
49 Agricultural Development and Farmland Preservation Advisory Committee, both of whom
50 shall have served on that committee prior to the effective date of this act. The ex officio
51 members shall begin serving on the interim board on the effective date of this act, and the

1 remaining members shall be appointed by August 1, 2011. Terms of the members of the
2 interim board shall expire on July 31, 2012. The Secretary of the Department of Environment
3 and Natural Resources and the Commissioner of Agriculture shall serve as cochairs of the
4 interim board.

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