

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 486

Short Title: NC Trail Expansion/Economic Corridors. (Public)

Sponsors: Senators Brock, Barringer, Alexander (Primary Sponsors); and Clark.

Referred to: Rules and Operations of the Senate.

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO ENHANCE ECONOMIC DEVELOPMENT THROUGH THE EXPANSION OF
THE STATE TRAILS NETWORK.

The General Assembly of North Carolina enacts:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

SECTION 1.(a) Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-434.2A. North Carolina Trails Management Trust Fund.

(a) The North Carolina Trails Management Trust Fund is created as a special revenue fund in the Department of Environment and Natural Resources. If the State Parks System is transferred to another State agency, then the Fund shall also be transferred to that State agency. The purpose of the Fund shall be to assist with the completion of the Mountains-to-Sea Trail and the completion and connection of municipal and regional greenways and trail systems to the Mountains-to-Sea Trail in order to encourage increased utilization by both residents and nonresidents of the State and to foster economic development and job growth along the Trail corridor. The North Carolina Trails Committee, in consultation with the Travel and Tourism Board, shall review all applications for funds and approve projects for funding.

(b) Revenue for the North Carolina Trails Management Fund shall come from:

(1) Any funds appropriated by the General Assembly.

(2) A surcharge authorized under G.S. 113-35(b2) on all fees charged for access, use, and services provided at parks within the State Park System.

(3) Gifts, grants, or contributions to the State that are specifically designated for inclusion in the Fund.

(c) The Department shall hold the Fund separate and apart from all other money, funds, and accounts. Any investment earnings credited to assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall not revert and shall be carried forward in the Fund for the next succeeding fiscal year.

(d) Moneys from the Fund shall be allocated and used only for the following purposes:

(1) Sixty-five percent (65%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land and for capital projects, repairs and renovations, and the development, construction, and maintenance of ancillary facilities directly related to the use of the Mountains-to-Sea Trail system.

(2) Thirty-five percent (35%) to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land



1 for the purpose of completing connections of local and regional greenways
2 and trails to the Mountains-to-Sea Trail.

3 (e) Moneys from the Fund shall be expended in the following order of priority:

4 (1) Acquisition of property for trail corridors.

5 (2) Trail construction, not to include paving.

6 (3) Maintenance, repairs and renovations, and related ancillary facilities.

7 **SECTION 1.(b)** G.S. 113-35 is amended by adding a new subsection to read:

8 "(b2) The Department may add a reasonable surcharge to fees authorized under this
9 section to provide revenue for the North Carolina Trails Management Trust Fund. The portion
10 of the fee designated as the surcharge shall be transferred annually to the Fund."

11 **SECTION 1.(c)** The Department of Environment and Natural Resources or any
12 other department given responsibility for State Parks shall, as soon as practicable but no later
13 than January 1, 2016, implement a revised fee schedule for all fees authorized at parks and
14 trails within the State Park System. The revised fees shall include the surcharge authorized
15 under Section 1(b) of this act to provide revenue for the North Carolina Trails Management
16 Trust Fund. Implementation of the fees shall be exempt from rule making under
17 G.S. 150B-1(d)(27). For the first year, the surcharge shall not exceed one dollar (\$1.00).
18 Thereafter, the surcharge may be increased or decreased as necessary in the discretion of the
19 Secretary. In no event shall the surcharge be less than fifty cents (50¢).
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21 **PART II. TRAVEL AND TOURISM BOARD**

22 **SECTION 2.(a)** G.S. 143B-434.1 reads as rewritten:

23 "**§ 143B-434.1. The North Carolina Travel and Tourism Board – creation, duties,**
24 **membership.**

25 (a) There is created within the Department of Commerce the North Carolina Travel and
26 Tourism Board. The Secretary of Commerce and the Director of the Division of Tourism, Film,
27 and Sports Development will work with the Board to fulfill the duties and requirements set
28 forth in this section, and to promote the sound development of the travel and tourism industry
29 in North Carolina.

30 (b) The function and duties of the Board shall be:

31 (1) To advise the Secretary of Commerce in the formulation of policy and
32 priorities for the promotion and development of travel and tourism in the
33 State.

34 (2) To advise the Secretary of Commerce in the development of a budget for the
35 Division of Tourism, Film, and Sports Development.

36 (3) To recommend programs to the Secretary of Commerce that will promote
37 the State as a travel and tourism destination and that will develop travel and
38 tourism opportunities throughout the State.

39 (4) To advise the Secretary of Commerce every three months as to the
40 effectiveness of agencies with which the Department has contracted for
41 advertising and regarding the selection of an advertising agency that will
42 assist the Department in the promotion of the State as a travel and tourism
43 destination.

44 (5) To name a three-member subcommittee, with one member from each of the
45 eastern, central, and western regions of the State, to make recommendations
46 to the Secretary of Commerce regarding any revisions in the matching funds
47 tourism grants program, project applications, and criteria for projects that
48 qualify for participation in the program.

49 (6) To advise the Secretary of Commerce from time to time as to the
50 effectiveness of the overall operations of the Division of Tourism, Film, and
51 Sports Development.

- 1 (7) To promote the exchange of ideas and information on travel and tourism
2 between State and local governmental agencies, and private organizations
3 and individuals.
- 4 (8) To advise the Secretary of Commerce upon any matter that the Secretary,
5 Governor, or Director of the Division of Tourism, Film, and Sports
6 Development may refer to it.
- 7 (9) To promote policies that support tourism in North Carolina.
- 8 (10) To advise the General Assembly on tourism policy matters upon request of
9 the Joint Legislative Oversight Committee on Governmental Operations or
10 the House or Senate Appropriations Subcommittee on General Government.
- 11 (c) The Board shall consist of ~~29~~13 members as follows:
- 12 ~~(1) The Secretary of Commerce, who shall not be a voting member.~~
- 13 ~~(2) The Director of the Division of Tourism, Film, and Sports Development,~~
14 ~~who shall not be a voting member.~~
- 15 (3) ~~Two members~~One member designated by the Board of Directors of the
16 North Carolina Restaurant and Lodging Association, representing the
17 lodging sector.
- 18 (4) ~~Two members~~One member designated by the Board of Directors of the
19 North Carolina Restaurant and Lodging Association, representing the
20 restaurant sector.
- 21 (5) ~~Three Directors~~Two directors of Convention and Visitor Bureaus designated
22 by the Board of Directors of the North Carolina Association of Convention
23 and Visitor Bureaus.
- 24 (6) The ~~Chairperson~~Chair of the Travel and Tourism Coalition or the
25 ~~Chairperson's~~Chair's designee.
- 26 (6a) One person who is a member of the Travel and Tourism Coalition
27 designated by the Board of Directors of the Travel and Tourism Coalition.
- 28 (7) The President of the North Carolina Travel Industry Association.
- 29 ~~(8) A member designated by the Board of Directors of the North Carolina~~
30 ~~Travel Industry Association.~~
- 31 ~~(9) The President of the North Carolina Chamber.~~
- 32 ~~(10) One member designated by the North Carolina Petroleum Marketers~~
33 ~~Association.~~
- 34 (11) Two persons appointed by the Speaker of the House of Representatives. One
35 person shall be associated with tourism attractions in North Carolina,
36 appointed by the Speaker of the House of Representatives. One and one
37 person who is shall not be a member of the General Assembly, appointed by
38 the Speaker of the House of Representatives. Assembly.
- 39 (12) Two persons appointed by the President Pro Tempore of the Senate. One
40 person shall be associated with the tourism-related transportation industry,
41 appointed by the President Pro Tempore of the Senate. One and one person
42 who shall is not be a member of the General Assembly, appointed by the
43 President Pro Tempore of the Senate. Assembly.
- 44 ~~(13) Four public members each interested in matters relating to travel and~~
45 ~~tourism, two appointed by the Governor (one from a rural area and one from~~
46 ~~an urban area), one appointed by the Speaker of the House, and one~~
47 ~~appointed by the President Pro Tempore of the Senate.~~
- 48 (14) ~~One member associated with the major cultural resources and activities of~~
49 ~~the State in North Carolina, Two members appointed by the~~
50 ~~Governor. Governor, one of whom is involved in the tourism industry.~~

- 1 (15) ~~Two members of the House of Representatives, appointed by the Speaker of~~
2 ~~the House of Representatives.~~
3 (16) ~~Two members of the Senate, appointed by the President Pro Tempore of the~~
4 ~~Senate.~~
5 (17) ~~Two members designated by the Board of Directors of North Carolina~~
6 ~~Watermen United who represent the charter boat/headboat industry.~~

7 (d) The members of the Board shall serve the following terms: ~~the Secretary of~~
8 ~~Commerce, the Director of the Division of Tourism, Film, and Sports Development, the~~
9 ~~Chairperson-Chair~~ of the Travel and Tourism ~~Coalition, Coalition and~~ the President of the North
10 Carolina Travel Industry Association, ~~and the President of the North Carolina Chamber~~
11 ~~Association~~ shall serve on the Board while they hold their respective offices. Each member of
12 the Board appointed by the Governor shall serve during his or her term of office. The members
13 of the Board appointed by the General Assembly shall serve two-year terms beginning on
14 ~~January-September 1~~ of odd-numbered years and ending on ~~December 31 of the following~~
15 ~~year-August 31~~. The first such term shall begin on ~~January 1, 1991, September 1, 2015,~~ or as
16 soon thereafter as the member is appointed to the Board, and end on ~~December 31,~~
17 ~~1992-August 31, 2017~~. All other members of the Board shall serve a term which ~~consists of~~
18 ~~includes~~ the portion of calendar year ~~1991-2015~~ that remains following their appointment or
19 designation ~~and ends on August 31, 2016,~~ and, thereafter, two-year terms which shall begin on
20 ~~January-September 1~~ of an even-numbered year and end on ~~December 31 of the following~~
21 ~~year-August 31~~. The first such two-year term shall begin on ~~January 1, 1992, September 1,~~
22 ~~2016,~~ and end on ~~December 31, 1994-August 31, 2018~~.

23 (e) No member of the Board, except a member serving by virtue of his or her office,
24 shall serve during more than five consecutive calendar years, except that a member shall
25 continue to serve until his or her successor is appointed.

26 (f) Appointments to fill vacancies in the membership of the Board that occur due to
27 resignation, dismissal, death, or disability of a member shall be for the balance of the unexpired
28 term and shall be made by the same appointing authority that made the initial appointment.

29 (g) Board members who are employees of the State shall receive travel allowances at
30 the rate set forth in G.S. 138-6. Board members who are legislators shall be reimbursed for
31 travel and subsistence in accordance with G.S. 120-3.1. All other Board members, except those
32 serving pursuant to subdivisions (3) through ~~(4)-(7)~~ of subsection (c) of this section, shall
33 receive per diem, subsistence, and travel expenses at the rate set forth in G.S. 138-5. Board
34 members serving pursuant to subdivisions (3) through ~~(4)-(7)~~ of subsection (c) of this section
35 shall not receive per diem, subsistence, or travel expenses. The expenses set forth in this section
36 shall be paid by the Division of Tourism, Film, and Sports Development of the Department of
37 Commerce.

38 (h) ~~At its first meeting in 1991, the~~ The Board shall elect one of its voting members to
39 serve as ~~Chairperson during calendar year 1991.~~ Chairperson. At its last regularly scheduled
40 meeting ~~in 1991, and at its last regularly scheduled meeting in each year thereafter, year,~~ the
41 Board shall elect one of its voting members to serve as Chairperson for the coming calendar
42 year. No person shall serve as Chairperson during more than three consecutive calendar years.
43 The Chairperson shall continue to serve until his or her successor is elected.

44 (i) A majority of the current voting membership shall constitute a quorum.

45 (j) The Secretary of Commerce shall provide clerical and other services as required by
46 the Board."

47 **SECTION 2.(b)** G.S. 143B-431.01(c) reads as rewritten:

48 "(c) Oversight. – There is established the Economic Development Accountability &
49 Standards Committee, which shall be treated as a board for purposes of Chapter 138A of the
50 General Statutes. The Committee shall consist of seven members as follows: the Secretary of
51 Commerce as Chair of the Committee, the Secretary of Transportation, the Secretary of

1 Environment and Natural Resources, the Secretary of Revenue, the chair of the North Carolina
2 Travel and Tourism Board, one member appointed by the General Assembly upon
3 recommendation of the Speaker of the House of Representatives, and one member appointed by
4 the General Assembly upon recommendation of the President Pro Tempore of the Senate, ~~and~~
5 ~~one member appointed by the General Assembly upon the joint recommendation of the Speaker~~
6 ~~of the House of Representatives and the President Pro Tempore of the Senate.~~ Members
7 appointed by the General Assembly shall be appointed for four-year terms beginning July 1 and
8 may not be members of the General Assembly.

9 The Committee shall be administratively housed in the Department of Commerce. The
10 Department of Commerce shall provide for the administrative costs of the Committee and shall
11 provide staff to the Committee. The Committee shall meet at least quarterly upon the call of the
12 Chair. The duties of the Committee shall include all of the following:

- 13 (1) Monitoring and oversight of the performance of a contract entered into
14 pursuant to this section by the Department with a North Carolina nonprofit
15 corporation.
- 16 (2) Receiving, reviewing, and referring complaints regarding the contract or the
17 performance of the North Carolina nonprofit corporation, as appropriate.
- 18 (3) Requesting enforcement of the contract by the Attorney General or the
19 Department.
- 20 (4) Auditing, at least biennially, by the Office of State Budget and Management,
21 State Auditor, or internal auditors of the Department, the records of the
22 North Carolina nonprofit corporation with which the Department has
23 contracted pursuant to this section during and after the term of the contract
24 to review financial documents of the corporation, performance of the
25 corporation, and compliance of the corporation with applicable laws. A copy
26 of any audit performed at the request of the Committee shall be forwarded to
27 the North Carolina Travel and Tourism Board.
- 28 (5) Coordination of economic development grant programs of the State between
29 the Department of Commerce, the Department of Transportation, and the
30 Department of Environment and Natural Resources.
- 31 (6) Any other duties deemed necessary by the Committee."

32 **SECTION 2.(c)** Section 2(a) of this act is effective when it becomes law and
33 applies to appointments made on or after that date. Terms of appointees serving on the Board at
34 that time expire on the effective date, but members may continue to serve until new members
35 are appointed under this section.

36 37 **PART III. DYNAMIC PRICING FLEXIBILITY**

38 **SECTION 3.(a)** G.S. 150B-1(d) is amended by adding a new subdivision to read:

39 "(27) The Department of Environment and Natural Resources with respect to
40 admission fees or related activity fees at:

41 a. The North Carolina Zoological Park pursuant to G.S. 143B-335.

42 b. State Parks pursuant to G.S. 113-35.

43 c. The North Carolina Aquariums pursuant to G.S. 143B-289.44."

44 **SECTION 3.(b)** The Department of Environment and Natural Resources, or any
45 other department given responsibilities for the North Carolina Zoological Park, State Parks, or
46 the North Carolina Aquariums, shall establish admission fees and related activity fees using a
47 dynamic pricing strategy as defined in Section 3(d) of this act. Any rule currently in the
48 Administrative Code related to fees covered by Section 3(a) of this act are ineffective and
49 repealed upon the effective date of new admission fees and related activity fees adopted by the
50 Department under the authority set out in Section 3(a) of this act. Notice of the initial adoption
51 of new admission fees and related activity fees under Section 3(a) of this act shall be given by

1 the Department to the Codifier of Rules, who, upon receipt of notice of the initial adoption of
2 new admission fees and related activity fees by the Department, shall note the repeal of these
3 rules in the Administrative Code.

4 **SECTION 3.(c)** The Department of Cultural Resources shall establish admission
5 fees and related activity fees authorized by G.S. 121-7.3 for historic sites and museums using a
6 dynamic pricing strategy as defined in Section 3(d) of this act.

7 **SECTION 3.(d)** It is the intent of the General Assembly that the Department of
8 Environment and Natural Resources, or any other department given responsibilities for the
9 North Carolina Zoological Park, State Parks or the North Carolina Aquariums institute dynamic
10 pricing as a flexible pricing strategy for admission fees and related activity fees for the North
11 Carolina Zoological Park, State Parks and the North Carolina Aquariums, and for the
12 Department of Cultural Resources to institute dynamic pricing as a flexible pricing strategy for
13 admission fees and related activity fees for historic sites and museums. Dynamic pricing is the
14 adjustment of fees for admission and related activities from time to time to reflect marketing
15 forces, including seasonal variations and special event interests, with the intent and effect to
16 maximize revenues from use of these State resources to the extent practicable to offset
17 appropriations from the General Assembly.

18 **SECTION 3.(e)** No later than March 1, 2016, the Department of Environment and
19 Natural Resources and the Department of Cultural Resources shall submit a report on
20 implementation of the new pricing strategy to the Environmental Review Commission.

21 **SECTION 3.(f)** This part is effective when it becomes law and applies to
22 admission fees or related activity fees charged on or after that date.

23 24 **PART IV. FOOD/VENDING SERVICES**

25 **SECTION 4.(a)** Article 4 of Chapter 111 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 111-47.3. Food service at North Carolina parks.**

28 (a) Notwithstanding Article 3 of Chapter 111 of the General Statutes, the Division of
29 Parks and Recreation of the Department of Natural Resources may operate or contract for the
30 operation of food or vending services at State parks. The net revenue generated by food and
31 vending services provided at State parks operated by the Division or a vendor with whom the
32 Division has contracted shall be used for the operation of the parks.

33 (b) This section shall not be construed to alter any contract for food or vending services
34 at a State park that is in force at the time this section becomes law."

35 **SECTION 4.(b)** The Department of Natural Resources, Division of Parks and
36 Recreation, shall study the feasibility of operating kiosk-type gift shops at State parks that offer
37 park-related merchandise for purchase in unmanned vending machines. As part of the study,
38 the Division shall issue a Request for Proposal (RFP) from vendors who would own, install,
39 and maintain the vending machines in exchange for a portion of the revenue derived from sales.
40 If the Division enters into a contract under this section, twenty-five percent (25%) of the net
41 proceeds derived from vending machine sales shall be credited to the North Carolina Trails
42 Management Trust Fund.

43 44 **PART V. PROPERTY MANAGEMENT**

45 **SECTION 5.(a)** The General Assembly finds that a hiking and biking trail around
46 Lake James in Burke County would provide a multitude of economic, recreational, health,
47 environmental, community, and transportation benefits. The General Assembly further finds
48 that a number of federal, State, local, and private partners have expressed substantial interest in
49 completing such a trail; that such a trail would be a recreational resource of statewide
50 significance; and that including such a trail in the State Parks System as a State Trail would be
51 beneficial to the people of North Carolina and further the development of North Carolina as

1 "The Great Trails State." The General Assembly authorizes the Department of Environment
2 and Natural Resources to add the Fonta Flora Loop Trail to the State Parks System as provided
3 in G.S. 113-44.14(b). The Department shall support, promote, encourage, and facilitate the
4 establishment of trail segments on State park lands and on lands of other federal, State, local,
5 and private landowners. On segments of the Fonta Flora Loop Trail that cross property
6 controlled by agencies or owners other than the Department's Division of Parks and Recreation,
7 the laws, rules, and policies of those agencies or owners shall govern the use of the property.

8 **SECTION 5.(b)** The Department of Administration is directed to identify all
9 State-owned property located within five miles of either side of the center line of the
10 Mountains-to-Sea Trail. The Department shall provide a written inventory of all properties
11 identified to the Environmental Review Commission no later than March 1, 2016.

12 **SECTION 5.(c)** The Department of Environment and Natural Resources, Division
13 of Parks and Recreation, in consultation with the North Carolina Trails Committee, is directed
14 to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems
15 and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea
16 Trail. The plan shall include potential time lines, funding needs, regulatory hurdles, and any
17 other issues related to interconnection of these systems.

18 **SECTION 5.(d)** The Department of Environment and Natural Resources, Division
19 of Parks and Recreation, shall study the feasibility of expanding the marina at Jordan Lake. The
20 Division shall report its findings, including any proposed actions the Division deems
21 appropriate, to the Environmental Review Commission no later than March 1, 2016.

22 **SECTION 5.(e)** The Wildlife Resources Commission shall study the feasibility of
23 leasing Mattamuskeet Lodge and adjacent properties to a private developer for opportunities
24 related to hunting, fishing, and tourism. The study shall include consideration of potential lease
25 terms and any limitations created by existing statutes or rules. The Commission shall report its
26 findings, including any legislative proposals, no later than March 1, 2016.

27 **SECTION 5.(f)** The Department of Environment and Natural Resources shall
28 study the feasibility of leasing property of the North Carolina Zoological Park to a private
29 developer for construction of a hotel/conference facility immediately adjacent to the African
30 Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from the
31 facility via a foot bridge. The study shall include consideration of potential lease terms and any
32 limitations created by existing statutes or rules. The Department shall report its findings,
33 including any legislative proposals, no later than March 1, 2016.

34 **PART VI. EXPEDITE TRAIL CONSTRUCTION**

35 **SECTION 6.(a)** Article 6 of Chapter 113A of the General Statutes is amended by
36 adding a new section to read:

37 **§ 113A-96. Trails exempt from environmental regulation.**

38 (a) Except as required by federal law, activities related to the construction,
39 maintenance, or removal of a trail shall be exempt from environmental regulation by an agency
40 authorized to implement and enforce State and federal environmental laws.

41 (b) For purposes of this section, "an agency authorized to implement and enforce State
42 and federal environmental laws" means any of the following:

- 43 (1) The Department of Environment and Natural Resources created pursuant to
44 G.S. 143B-279.1.
- 45 (2) The Environmental Management Commission created pursuant to
46 G.S. 143B-282.
- 47 (3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
- 48 (4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
- 49 (5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
- 50 (6) The Commission for Public Health created pursuant to G.S. 130A-29.
- 51

- 1 (7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
- 2 (8) A local government when implementing any program delegated by an
- 3 agency listed in subdivisions (1) through (7) of this subsection.
- 4 (c) Nothing in this section shall prohibit the Department or a local government from
- 5 otherwise managing a trail under its jurisdiction."

6 **SECTION 6.(b)** This section is effective when it becomes law and applies to the
7 construction, maintenance, or removal of a trail occurring on or after that date.

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9 **PART VII. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

10 **SECTION 7.(a)** If any provision of this act or its application is held invalid, the
11 invalidity does not affect other provisions or applications of this act that can be given effect
12 without the invalid provisions or application, and to this end the provisions of this act are
13 severable.

14 **SECTION 7.(b)** This act is effective as provided herein. The remainder of this act
15 is effective when it becomes law.