

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

S

5

SENATE BILL 433
Agriculture/Environment/Natural Resources Committee Substitute Adopted 5/1/19
House Committee Substitute Favorable 6/26/19
House Committee Substitute #2 Favorable 10/1/19
Fifth Edition Engrossed 10/2/19

Short Title: DNCR Omnibus & Other Changes.

(Public)

Sponsors:

Referred to:

April 1, 2019

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE STATUTES GOVERNING THE DEPARTMENT OF NATURAL AND CULTURAL RESOURCES AND TO REMOVE CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC PRESERVE, AS RECOMMENDED BY THE DEPARTMENT; TO MAKE ADDITIONS TO CERTAIN REPORTS OF THE NORTH CAROLINA POLICY COLLABORATORY TO THE GENERAL ASSEMBLY; TO CLARIFY CERTAIN APPROPRIATIONS IN THE 2018 HURRICANE FLORENCE DISASTER RECOVERY ACT; TO CORRECT AN EFFECTIVE DATE; AND TO REPEAL AND REPLACE AN ACT PROVIDING FOR EMERGENCY OPERATING FUNDS FOR UTILITIES.

The General Assembly of North Carolina enacts:

ZOOLOGICAL PARK STATUTORY AUTHORITY

SECTION 1.(a) The title of Part 39 of Article 2 of Chapter 143B of the General Statutes reads as rewritten:

"Part 39. North Carolina Zoological ~~Park Council~~ Park."

SECTION 1.(b) Part 39 of Article 2 of Chapter 143B of the General Statutes, as amended by subsection (a) of this section, is amended by adding a new section to read:

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

(a) Operation of Park. – The Secretary of the Department of Natural and Cultural Resources may adopt rules governing the operation of the Zoological Park, including rules regulating its use and enjoyment by the public.

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

REDUCE CERTAIN CLASS 3 MISDEMEANORS TO INFRACTIONS AT STATE PARKS

SECTION 2.(a) G.S. 143B-135.16(a) reads as rewritten:

"§ 143B-135.16. Control over State parks; operation of public service facilities; concessions to private concerns; authority to charge fees and adopt rules.



1 (a) The Department shall make reasonable rules governing the use by the public of State
2 parks and State lakes under its charge. These rules shall be posted in conspicuous places on and
3 adjacent to the properties of the State and at the courthouse of the county or counties in which
4 the properties are located. A violation of these rules is punishable as a Class 3 misdemeanor.
5 Notwithstanding any other provision of law, violations of rules regarding the following shall be
6 punishable as an infraction and carry a penalty of not more than twenty-five dollars (\$25.00):

7 (1) Parking a motor vehicle outside of a designated area.

8 (2) Persons using skateboards, rollerblades, roller skates, or similar devices in
9 prohibited areas.

10 (3) Persons bathing animals or washing clothes or motor vehicles.

11 (4) Persons bathing, wading, surfing, diving, scuba diving, or swimming in
12 undesignated areas.

13 (5) Persons carrying or depositing glass, crockery, or any metallic substance on a
14 swimming area or beach.

15 (6) Persons using boats, rafts, surfboards, personal watercraft, canoes, or other
16 vessels in designated swimming areas.

17 (7) Persons fishing in nondesignated areas.

18 A person found responsible for a violation carrying a penalty of an infraction of this section
19 shall not be assessed court costs for the infraction."

20 **SECTION 2.(b)** This section becomes effective December 1, 2019, and applies to
21 offenses committed on or after that date.

22 23 **CLARIFY EMPLOYMENT STATUS FOR CERTAIN MUSEUM OF ART EMPLOYEES**

24 **SECTION 3.** G.S. 140-5.15 reads as rewritten:

25 **"§ 140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.**

26 ...

27 (e) The Director, associate directors, and curators shall be exempt from the provisions of
28 the North Carolina Human Resources Act. ~~The Board of Trustees shall adopt, subject to the~~
29 ~~approval of the Secretary of Natural and Cultural Resources, rules and regulations governing the~~
30 ~~employment, promotion, demotion, and dismissal of associate directors and curators."~~

31 32 **TECHNICAL CORRECTION**

33 **SECTION 4.** G.S. 113A-129.3(b) reads as rewritten:

34 "(b) To the extent feasible, lands and waters within this system shall be dedicated as
35 components of the "State Nature and Historic Preserve" as provided in Article XIV, Section 5,
36 of the Constitution and as nature reserves pursuant to ~~G.S. 113A-164.1 to G.S.~~
37 ~~113A-164.11.~~G.S. 143B-135.250 to G.S. 143B-135.270."

38 39 **REMOVAL OF CERTAIN LANDS FROM THE STATE NATURE AND HISTORIC** 40 **PRESERVE**

41 **SECTION 5.** G.S. 143-260.10 reads as rewritten:

42 **"§ 143-260.10. Components of State Nature and Historic Preserve.**

43 The following are components of the State Nature and Historic Preserve accepted by the
44 North Carolina General Assembly pursuant to G.S. 143-260.8:

45 ...

46 (2) All lands and waters within the boundaries of William B. Umstead State Park
47 as of May 2, 2017, with the exception of the following tracts. The tracts
48 excluded from the State Nature and Historic Preserve under this subdivision
49 are deleted from the State Parks System in accordance with G.S. 143B-135.54.
50 The State of North Carolina may only exchange this land for other land for
51 the expansion of William B. Umstead State Park or sell and use the proceeds

- 1 for that purpose. The State of North Carolina may not otherwise sell or
 2 exchange this land.
 3 a. Tract Number 65, containing 22.93140 acres as shown on a survey
 4 prepared by John S. Lawrence (RLS) and Bennie R. Smith (RLS),
 5 entitled "Property of The State of North Carolina William B. Umstead
 6 State Park", dated January 14, 1977 and filed in the State Property
 7 Office, which was removed from the State Nature and Historic
 8 Preserve by Chapter 450, Section 1 of the 1985 Session Laws. ~~The~~
 9 ~~tract excluded from the State Nature and Historic Preserve under this~~
 10 ~~subdivision is deleted from the State Parks System in accordance with~~
 11 ~~G.S. 143B-135.54. The State of North Carolina may only exchange~~
 12 ~~this land for other land for the expansion of William B. Umstead State~~
 13 ~~Park or sell and use the proceeds for that purpose. The State of North~~
 14 ~~Carolina may not otherwise sell or exchange this land.~~
 15 b. The portion of that certain tract or parcel of property at William B.
 16 Umstead State Park in Wake County, described in Deed Book 13337,
 17 Page 2379, and containing 0.15 acres as shown on the survey prepared
 18 by Robert T. Newcomb (RLS) entitled "Property of Robert J.
 19 Demartini," dated August 1981.
 20 ...
 21 (12) All lands and waters located within the boundaries of Hanging Rock State
 22 Park as of May 2, 2017, with the exception of the following ~~tract:~~~~tracts:~~
 23 a. The portion of that tract or property at Hanging Rock State Park in
 24 Stokes County, Danbury Township, described in Deed Book 360, Page
 25 160, for a 30-foot wide right-of-way beginning approximately 183 feet
 26 south of SR 1001 and extending in a southerly direction approximately
 27 1,479 feet to the southwest corner of the Bobby Joe Lankford tract and
 28 more particularly shown on a survey entitled, "J. Spot Taylor Heirs
 29 Survey, Danbury Township, Stokes County, N.C.", by Grinski
 30 Surveying Company, dated June 1985, and filed in the State Property
 31 Office. The tract excluded from the State Nature and Historic Preserve
 32 under this subdivision is deleted from the State Parks System in
 33 accordance with G.S. 143B-135.54.
 34 b. The portion of that certain tract or parcel of property at Hanging Rock
 35 State Park in Stokes County, described in Deed Book 267, Page 159,
 36 and containing 1.53 acres as shown on the survey entitled "Plat of
 37 Survey for NC Division of Parks and Recreation showing 'Camp
 38 Sertoma Tracts'" by C.E. Robertson and Associates, PC, revised April
 39 6, 2016. The tract excluded from the State Nature and Historic
 40 Preserve under this subdivision is deleted from the State Parks System
 41 in accordance with G.S. 143B-135.54. The State of North Carolina
 42 may only exchange this land for other land for the expansion of
 43 Hanging Rock State Park or sell and use the proceeds for that purpose.
 44 The State of North Carolina may not otherwise sell or exchange this
 45 land.
 46 ...
 47 (21) All lands and waters within the boundaries of Chimney Rock State Park as of
 48 May 2, 2017, with the exception of the following tracts:
 49 a. The portion of that certain tract or parcel of land at Chimney Rock
 50 State Park in Rutherford County being a portion of Parcel 2 as
 51 described in Deed Book 933, Page 598, containing 346 square feet and

1 being shown as proposed right-of-way for bridge replacement project
 2 B-4258 on U.S. 64 over the Broad River on drawing prepared by
 3 Kimley-Horn and Associates for the North Carolina Department of
 4 Transportation and revised October 26, 2007, and filed with the State
 5 Property Office. The portion of that certain tract or parcel of land at
 6 Chimney Rock State Park in Polk County, Cooper Gap Township,
 7 Deed Book 393, Page 1402, containing 6.5 acres more or less and
 8 shown on the survey entitled "Plat of Survey for The State of North
 9 Carolina" prepared by Stacy Kent Rhodes dated May 15, 2014, and
 10 filed with the State Property Office. The tracts excluded from the State
 11 Nature and Historic Preserve under this section are deleted from the
 12 State Parks System pursuant to G.S. 143B-135.54. The State of North
 13 Carolina may only exchange this land for other land for the expansion
 14 of Chimney Rock State Park or sell this land and use the proceeds for
 15 that purpose. The State may not otherwise sell or exchange this land.

16 b. With respect to the communications tower site on Chimney Rock
 17 Mountain located on a portion of that certain tract or parcel of land at
 18 Chimney Rock State Park in Rutherford County, Chimney Rock
 19 Township, described in Deed Book 933, Page 598, the State may
 20 provide space at the communications tower site to State public safety,
 21 emergency management, local governments in Rutherford County,
 22 and public television agencies for the placement of antennas, repeaters,
 23 and other communications devices for public communications
 24 purposes. State agencies and local governments that are authorized to
 25 place communications devices at or near the communications tower
 26 site pursuant to this subdivision may also locate at or near the
 27 communications tower site communications equipment necessary for
 28 the proper operation of the communications devices. The use of the
 29 communications tower site pursuant to this subdivision is authorized
 30 by the General Assembly as a purpose other than the public purposes
 31 specified in Section 5 of Article XIV of the North Carolina
 32 Constitution, Article 25B of Chapter 143 of the General Statutes, and
 33 Article 2 of Chapter 143B of the General Statutes.

34 c. The portion of that certain tract or parcel of property at Chimney Rock
 35 State Park in Polk County, Cooper Gap Township, described in Deed
 36 Book 393, Page 1402, containing 28.84 acres, as shown on the survey
 37 entitled "Plat of Survey for The State of North Carolina" prepared by
 38 Stacy Kent Rhodes dated May 15, 2014, and filed with the State
 39 Property Office. The property described in this subdivision is deleted
 40 from the State Parks System pursuant to G.S. 143B-135.54. The State
 41 may only exchange this property for other property for the expansion
 42 of Chimney Rock State Park or sell this land and use the proceeds for
 43 that purpose. The State shall not otherwise sell or exchange this land.

44"

45
 46 **DNCR PARTNERSHIP WITH NONPROFITS TO ESTABLISH SATELLITE**
 47 **MUSEUMS**

48 SECTION 6. G.S. 143B-135.229 reads as rewritten:

49 "**§ 143B-135.229. North Carolina Museum of Natural Sciences at Whiteville; Sciences'**
 50 **satellite ~~museum~~ museums.**

1 (a) The Department of Natural and Cultural Resources shall establish and administer the
2 North Carolina Museum of Natural Sciences at Whiteville in Columbus County as a satellite
3 museum of the North Carolina State Museum of Natural Sciences.

4 (b) The Department of Natural and Cultural Resources may enter into agreements with
5 nonprofit organizations to establish satellite museums of the North Carolina State Museum of
6 Natural Sciences that are administered by the nonprofit organizations and meet the requirements
7 of G.S. 143B-135.227(d)(1)-(5)."
8

9 COLLABORATORY/FIREFIGHTING FOAM

10 **SECTION 7.(a)** The North Carolina Policy Collaboratory at the University of North
11 Carolina at Chapel Hill (Collaboratory) shall create an inventory of aqueous film-forming foam
12 (AFFF) used or stored by fire departments in North Carolina operated, managed, or overseen by
13 units of local government, including those located at or serving airports. This inventory shall
14 include, at a minimum, the following:

- 15 (1) The name and address of each fire department that owns or otherwise has on
16 the premises of a fire station a firefighting vehicle that carries AFFF or a
17 storage tank or other vessel for AFFF.
- 18 (2) The volume, trade name, and CAS number of AFFF used by each department
19 in 2018 for fighting fires or firefighter training.
- 20 (3) The number of firefighting vehicles carrying AFFF and the volume of AFFF
21 carried by each vehicle.
- 22 (4) Each fire department's annual cost of acquiring AFFF and last known
23 purchases of AFFF.
- 24 (5) The volume, trade name, and CAS number of AFFF stored by each fire
25 department or unit of local government for firefighting use and the portion of
26 these AFFFs that are no longer utilized and could be removed from inventory
27 for disposal.
- 28 (6) Other data deemed relevant by the Collaboratory to establish a statewide
29 inventory of AFFF used for fighting fires or firefighter training.

30 The Office of the State Fire Marshal of the Department of Insurance and all units of
31 local government shall provide any assistance requested by the Collaboratory to acquire and
32 compile the data required by this section.

33 **SECTION 7.(b)** The North Carolina Policy Collaboratory at the University of North
34 Carolina at Chapel Hill (Collaboratory) shall develop a proposal for identifying and collecting
35 AFFF that is expired or no longer needed or wanted by each fire department in North Carolina
36 operated, managed, or overseen by units of local government, including those located at or
37 serving airports. This proposal should include recommendations on which State agency or
38 agencies could oversee such a collection effort and cost estimates on this collection, stockpiling,
39 and disposal. The Department of Insurance Office of the State Fire Marshal, the Department of
40 Environmental Quality, the Department of Health and Human Services, and the Department of
41 Public Safety shall provide any assistance requested by the Collaboratory to acquire and compile
42 the data required by this section.

43 **SECTION 7.(c)** The Collaboratory shall include the results of the studies required
44 by subsections (a) and (b) of this section in its final report required by Section 13.1(g) of S.L.
45 2018-5 and provide an interim report no later than April 1, 2020, to the Joint Legislative
46 Oversight Committee on Agriculture and Natural and Economic Resources and the
47 Environmental Review Commission.

49 COASTAL BEACH AND DREDGING NEEDS ASSESSMENT FUNDS

50 **SECTION 8.** Notwithstanding any provision of the 2018 Hurricane Florence
51 Disaster Recovery Act (S.L. 2018-136) or of the committee report described in Section 6.1 of

1 that act to the contrary, funds appropriated to the Hurricane Florence Disaster Recovery Fund
2 and allocated to the Department of Environmental Quality for a coastal beach and dredging needs
3 assessment may be used for a dredge material management plan to assess any nonfederal disposal
4 area for dredged material in the State.

5 6 **CLARIFY CERTAIN COASTAL STORM DAMAGE MITIGATION FUND MATCH** 7 **REQUIREMENTS**

8 **SECTION 9.** Subdivision (8) of Section 1.3 of S.L. 2018-138 reads as rewritten:

9 "(8) Eighteen million five hundred thousand dollars (\$18,500,000) to the
10 Department of Environmental Quality for the Coastal Storm Damage
11 Mitigation Fund. Notwithstanding G.S. 143-215.73M(c), funds allocated by
12 this subdivision may be used to provide no more than fifty percent (50%) of
13 the ~~nonfederal share for a federally funded eligible project, and no more than~~
14 ~~fifty percent (50%) of the total cost of an eligible project that is not federally~~
15 ~~funded.~~ total cost of an eligible project. Notwithstanding G.S. 143C-4-5, the
16 Department shall disburse the funds for any eligible project in a single
17 payment upon the execution of a grant contract between the State and a unit
18 of local government. If an eligible project receiving State funding under this
19 section subsequently receives federal funding, the unit of local government
20 designated as the grantee under the grant contract shall revert to the Office of
21 State Budget and Management the portion of State funds that have been
22 reimbursed by the federal funding. For purposes of this subdivision, an
23 "eligible project" is a project that mitigates or remediates coastal storm
24 damage to the ocean beaches and dune systems of the State."
25

26 **CLARIFY COASTAL STORM DAMAGE MITIGATION FUNDING**

27 **SECTION 9.5.** Notwithstanding any provision of Section 3.1 of S.L. 2018-134 to
28 the contrary, funds appropriated to the Hurricane Florence Disaster Recovery Fund and allocated
29 to the Department of Environmental Quality for the Coastal Storm Damage Mitigation Fund
30 (Fund) by any act of the General Assembly may be used for coastal storm damage in any county
31 designated under a major disaster declaration by the President of the United States under the
32 Stafford Act (P.L. 93-288) with respect to any natural disaster occurring after January 1, 2016
33 causing damage to the ocean beaches and dune systems in that county. No recipient of funds
34 described by this section shall be required to determine which major disaster caused particular
35 coastal storm damage.
36

37 **EFFECTIVE DATE CORRECTION**

38 **SECTION 10.(a)** If Senate Bill 553, 2019 Regular Session, becomes law, then
39 Section 12(b) of that act reads as rewritten:

40 "**SECTION 12.(b)** This section becomes effective ~~July 1, 2019,~~ November 1, 2019, and
41 applies to applications for loans or grants from the Wastewater Reserve or the Drinking Water
42 Reserve received by the Division of Water Infrastructure on or after that date."
43

44 **SECTION 10.(b)** This section becomes effective July 1, 2019.

45 **EMERGENCY OPERATING FUNDS FOR UTILITIES**

46 **SECTION 11.(a)** S.L. 2019-226 is repealed. This subsection does not affect the
47 rights, obligations, or liabilities of the State or a unit of local government arising under S.L.
48 2019-226 as it existed prior to repeal.

49 **SECTION 11.(b)** Notwithstanding G.S. 159G-33(a) and G.S. 159B-34(a), during
50 the 2019-2020 fiscal year, the Department may use funds in the Wastewater Reserve or the
51 Drinking Water Reserve to provide grants to the Local Government Commission to cover

1 operating deficits in an enterprise fund accounting for a public water or wastewater system. For
2 purposes of this section, "operating deficit" is defined as a shortfall in an enterprise fund
3 accounting for a public water or wastewater system between revenues plus available reserves and
4 operating expenditures, including capital expenditures, necessary to maintain operations.

5 Funding provided by this section is available only under either of the following
6 circumstances:

- 7 (1) The Local Government Commission has exercised its powers under
8 G.S. 159-181 to assume full or partial control over the affairs of the public
9 water or wastewater system or of the unit of local government or public
10 authority that owns or operates the public water or wastewater system.
- 11 (2) The charter of the unit of local government or public authority that owns or
12 operates the public water or wastewater system has been suspended or revoked
13 by local act.

14 **SECTION 11.(c)** Funds for the purposes described in subsection (b) of this section
15 may not exceed one million dollars (\$1,000,000) in each fiscal year. An application for a grant
16 under this section for an emergency grant for operating deficits must be filed by the Local
17 Government Commission on behalf of the local government unit. Applications for emergency
18 grants for operating deficits are not subject to G.S. 159G-37(b).

19 **SECTION 11.(d)** If Senate Bill 553, 2019 Regular Session; House Bill 966, 2019
20 Regular Session; or legislation substantially similar to Section 12.15 of House Bill 966, 2019
21 Regular Session, becomes law, then G.S. 159G-20 is amended by adding a new subdivision to
22 read:

23 "(14a) Operating deficit. – A shortfall in an enterprise fund accounting for a public
24 water or wastewater system between revenues plus available reserves and
25 operating expenditures, including capital expenditures, necessary to maintain
26 operations."

27 **SECTION 11.(e)** If Senate Bill 553, 2019 Regular Session; House Bill 966, 2019
28 Regular Session; or legislation substantially similar to Section 12.15 of House Bill 966, 2019
29 Regular Session, becomes law, then G.S. 159G-32(d) is amended by adding a new subdivision
30 to read:

31 "(6) Provide emergency grants for operating deficits for certain local government
32 units as set forth in G.S. 159G-34.5(a)(4)."

33 **SECTION 11.(f)** If Senate Bill 553, 2019 Regular Session; House Bill 966, 2019
34 Regular Session; or legislation substantially similar to Section 12.15 of House Bill 966, 2019
35 Regular Session, becomes law, then G.S. 159G-34.5(a) is amended by adding a new subdivision
36 to read:

37 "(4) Emergency grant for operating deficit. – An emergency grant for operating
38 deficits is available for distressed units if the Local Government Commission
39 has exercised its powers under G.S. 159-181 to assume full or partial control
40 over the affairs of the public water or wastewater system or of the unit of local
41 government or public authority that owns or operates the public water or
42 wastewater system."

43 **SECTION 11.(g)** If Senate Bill 553, 2019 Regular Session; House Bill 966, 2019
44 Regular Session; or legislation substantially similar to Section 12.15 of House Bill 966, 2019
45 Regular Session, becomes law, then G.S. 159G-36(d) reads as rewritten:

46 "(d) Viable Utility Reserve Recipient Limit. – Grants under the Viable Utility Reserve are
47 limited as follows:

- 48 (1) Grants for the purposes set forth in subdivisions (1) through (5) of
49 G.S. 159-32(d) shall not exceed fifteen million dollars (\$15,000,000) to any
50 single local government unit. Where two or more local government units are

1 merging into a single utility, the total grant awarded shall not exceed thirty
2 million dollars (\$30,000,000).
3 (2) Grants for the purpose set forth in subdivision (6) of G.S. 159-32(d) to a local
4 government unit shall not (i) exceed seven hundred fifty thousand dollars
5 (\$750,000) in any fiscal year and (ii) be awarded for more than three
6 consecutive fiscal years."

7 **SECTION 11.(h)** If Senate Bill 553, 2019 Regular Session; House Bill 966, 2019
8 Regular Session; or legislation substantially similar to Section 12.15 of House Bill 966, 2019
9 Regular Session, becomes law, then G.S. 159G-31 is amended by adding a new subsection to
10 read:

11 "(e) The Local Government Commission is eligible to apply on behalf of a local
12 government unit for an emergency grant for operating deficits from the Viable Utility Reserve."

13 **SECTION 11.(i)** This section is effective when it becomes law. Subsections (b) and
14 (c) of this section expire on the earlier of (i) the date that House Bill 966, 2019 Regular Session,
15 becomes law or (ii) June 30, 2020.

16

17 **EFFECTIVE DATE**

18 **SECTION 12.** Except as otherwise provided, this act is effective when it becomes
19 law.