

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 246

Short Title: DEQ/Fund and Fee Changes.-AB (Public)

Sponsors: Representative McGrady.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

March 4, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE VARIOUS FEES AND FUNDS OF THE DEPARTMENT OF
3 ENVIRONMENTAL QUALITY.

4 The General Assembly of North Carolina enacts:

5 **INVESTMENT FLEXIBILITY AND RETAINED EARNINGS FOR RIPARIAN**
6 **BUFFER RESTORATION FUND AND RETAINED EARNINGS FOR ECOSYSTEM**
7 **RESTORATION FUND**

8 **SECTION 1.(a)** G.S. 147-69.2(a) is amended by adding a new subdivision to read:

9 "(17n) The Riparian Buffer Restoration Fund."

10 **SECTION 1.(b)** G.S. 147-69.2(d) reads as rewritten:

11 "(d) The State Treasurer may invest funds deposited pursuant to subdivisions (17i), (17j),
12 and (17k) of subsection (a) of this section in any of the investments authorized under subdivisions
13 (1) through (6) and subdivision (8) of subsection (b) of this section. The State Treasurer may
14 require a minimum deposit, up to one hundred thousand dollars (\$100,000), and may assess a
15 reasonable fee, not to exceed 15 basis points, as a condition of participation pursuant to this
16 subsection. Fees assessed by the State Treasurer may be used to defray the costs of administering
17 the funds and expenditures authorized under this section. Funds deposited pursuant to this
18 subsection shall remain the funds of the North Carolina Conservation Easement Endowment
19 Fund, the Conservation Grant Fund, the Ecosystem Restoration Fund, the Riparian Buffer
20 Restoration Fund, or the Wildlife Endowment Fund, as applicable, and interest or other
21 investment income earned thereon shall be prorated and credited to the North Carolina
22 Conservation Easement Endowment Fund, the Conservation Grant Fund, the Ecosystem
23 Restoration Fund, the Riparian Buffer Restoration Fund, or the Wildlife Endowment Fund on the
24 basis of the amounts contributed to the respective Funds, figured according to sound accounting
25 principles."
26

27 **SOLID WASTE PERMIT FEE AMENDMENTS**

28 **SECTION 2.** G.S. 130A-295.8 reads as rewritten:

29 **"§ 130A-295.8. Fees applicable to permits for solid waste management facilities.**

30 ...

31 (d1) A permitted solid waste management facility shall pay an annual permit fee on or
32 before August 1 of each year according to the following schedule:

33 ...

34 (13) Treatment and Processing Facility – ~~\$500.~~\$1,500.

35 (14) Tire Monofill – ~~\$1,000.~~\$5,500.



- 1 (15) Incinerator – ~~\$500-\$1,500.~~
 2 (16) Large Compost Facility – ~~\$500-\$1,500.~~
 3 (17) Land Clearing and Inert Debris Landfill – ~~\$500-\$1,000.~~
 4 (18) Structural Fill project involving the placement of less than 8,000 tons of coal
 5 combustion products per acre or less than 80,000 tons of coal combustion
 6 products in total – \$1,500.
 7 (19) Structural Fill project involving the placement of 8,000 or more tons of coal
 8 combustion products per acre or 80,000 or more tons of coal combustion
 9 products in total – \$4,500.
 10 (20) Post-Closure Structural Fill project involving the placement of 8,000 or more
 11 tons of coal combustion products per acre or 80,000 or more tons of coal
 12 combustion products in total – \$500.

13"

15 DRY-CLEANING SOLVENT PROGRAM AMENDMENTS

16 SECTION 3.(a) G.S. 143-215.104A reads as rewritten:

17 "§ 143-215.104A. Title; sunset.

18 This part is the "Dry-Cleaning Solvent Cleanup Act of 1997" and may be cited by that name.
 19 ~~Except as otherwise provided in this section, this~~ This part expires 1 January 2022.
 20 January 1, 2032, except with respect to all of the following:

- 21 (1) ~~G.S. 143-215.104K is not repealed~~ does not expire to the extent that it applies
 22 to liability arising from dry-cleaning solvent contamination described in a
 23 Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent
 24 Remediation Agreement entered into by the Environmental Management
 25 Commission pursuant to G.S. 143-215.104H and G.S. 143-215.104I.
 26 (2) Any Dry-Cleaning Solvent Assessment Agreement or Dry-Cleaning Solvent
 27 Remediation Agreement in force as of ~~1 January 2012~~ January 1, 2032, shall
 28 continue to be governed by the provisions of Part 6 of Article 21A of Chapter
 29 143 of the General Statutes as though those provisions had not been repealed.
 30 (3) ~~G.S. 143-215.104D(b)(2) is not repealed;~~ does not expire; rules adopted by
 31 the Environmental Management Commission pursuant to
 32 G.S. 143-215.104D(b)(2) shall continue in effect; and those rules may be
 33 enforced pursuant to G.S. 143-215.104P, 143-215.104Q, and 143-215.104R,
 34 which shall remain in effect for that purpose."

35 SECTION 3.(b) G.S. 143-215.104C reads as rewritten:

36 "§ 143-215.104C. Dry-Cleaning Solvent Cleanup Fund.

37 ...

38 (d) ~~Up to one percent (1%)~~ three percent (3%) of the amount of the Fund balance may be
 39 used by the Department in each fiscal year for investigation of inactive hazardous substance
 40 disposal sites that the Department reasonably believes to be contaminated by dry-cleaning
 41 solvent. If the contamination is determined to originate from a dry-cleaning facility, a potentially
 42 responsible party may petition for certification of the facility or abandoned facility site.
 43 Acceptance of a petition shall be conditioned upon the written acceptance by the petitioner of
 44 responsibility for the costs of investigation incurred by the Department pursuant to this
 45 subsection. Costs of investigation that are recovered pursuant to this subsection shall not exceed,
 46 and shall be credited toward, the financial responsibility of the petitioner pursuant to
 47 G.S. 143-215.104F(f). If a potentially responsible party does not petition for certification of the
 48 facility or abandoned facility site, the Commission may request the Attorney General to
 49 commence a civil action to secure reimbursement of costs incurred under this subsection."

50 SECTION 3.(c) G.S. 143-215.104P reads as rewritten:

51 "§ 143-215.104P. Enforcement procedures; civil penalties.

1 (a) The Secretary may assess a civil penalty of not more than ten thousand dollars
 2 (\$10,000) or, if the violation involves a hazardous waste, as defined in ~~G.S. 130-290,~~
 3 G.S. 130A-290, of not more than ~~twenty-five thousand dollars (\$25,000)~~ thirty-two thousand five
 4 hundred dollars (\$32,500) against any person ~~who:~~ who does any of the following:

5 ...

6 (b) If any action or failure to act for which a penalty may be assessed under subsection
 7 (a) of this section is continuous, the Secretary may assess a penalty not to exceed ten thousand
 8 dollars (\$10,000) per day or, if the violation involves a hazardous waste, as defined in ~~G.S.~~
 9 ~~130-290, G.S. 130A-290~~, not exceed ~~twenty-five thousand dollars (\$25,000)~~ thirty-two thousand
 10 five hundred dollars (\$32,500) per day. A penalty for a continuous violation shall not exceed two
 11 hundred thousand dollars (\$200,000) for each period of 30 days during which the violation
 12 continues.

13"

14 **SECTION 3.(d)** G.S. 105-164.44E reads as rewritten:

15 **"§ 105-164.44E. Transfer to the Dry-Cleaning Solvent Cleanup Fund.**

16 (a) Transfer. – At the end of each quarter, the Secretary must transfer to the Dry-Cleaning
 17 Solvent Cleanup Fund established under G.S. 143-215.104C an amount equal to fifteen percent
 18 (15%) of the net State sales and use taxes collected under G.S. 105-164.4(a)(4) during the
 19 previous fiscal year, as determined by the Secretary based on available data.

20 (b) Sunset. – This section is repealed effective ~~July 1, 2020.~~ July 1, 2030."

21 **SECTION 3.(e)** G.S. 105-187.35 reads as rewritten:

22 **"§ 105-187.35. Sunset.**

23 This Article is repealed effective ~~January 1, 2020.~~ January 1, 2030."

24
 25 **EXPAND ALLOWABLE USES FOR SHALLOW DRAFT NAVIGATION CHANNEL**
 26 **DREDGING AND AQUATIC WEED FUND**

27 **SECTION 4.** G.S. 143-215.73F(b) reads as rewritten:

28 "(b) Uses of Fund. – Revenue in the Fund may only be used for the following purposes:

29 (1) To provide the State's share of the costs associated with any dredging project
 30 designed to keep shallow draft navigation channels located in State waters or
 31 waters of the state located within lakes navigable and safe.

32 (2) For aquatic weed control projects in waters of the State under Article 15 of
 33 Chapter 113A of the General Statutes. Funding for aquatic weed control
 34 projects is limited to one million dollars (\$1,000,000) in each fiscal year.

35 (3) For the compensation of the following positions within the Department of
 36 Environmental Quality:

37 a. ~~a~~ A beach and inlet management project manager with the Division of
 38 Coastal Management of the Department of Environmental Quality for
 39 the purpose of overseeing to oversee all activities related to beach and
 40 inlet management in the State.

41 b. A manager to oversee financial management activities related to water
 42 resources development grants.

43 Funding for the ~~position positions~~ is limited to ~~ninety-nine thousand dollars~~
 44 ~~(\$99,000)~~ two percent (2%) of funds credited to the Fund in each fiscal year.

45 (4) To provide funding for siting and acquisition of dredged disposal easement
 46 sites associated with the maintenance of the Atlantic Intracoastal Waterway
 47 between the border with the state of South Carolina and the border with the
 48 Commonwealth of Virginia, under a Memorandum of Agreement between the
 49 State and the federal government.

50 (5) To conduct assessments and maintain a database of dredge material disposal
 51 sites located in the State. For purposes of this subdivision, a dredge material

1 disposal site includes any site where sediment may be disposed as a result of
2 excavation or other removal from the bottom of navigable waters to maintain
3 navigation channels in those waters."
4

5 CONSERVATION GRANT FUND AMENDMENTS

6 SECTION 5.(a) G.S. 113A-232 reads as rewritten:

7 "§ 113A-232. Conservation Grant Fund.

8 (a) Fund Created. – The Conservation Grant Fund is created within the Department of
9 Environmental Quality. The Fund shall be administered by the Department. ~~The purpose of the~~
10 ~~Fund is to stimulate the use of conservation easements, to improve the capacity of private~~
11 ~~nonprofit land trust organizations to successfully accomplish conservation projects, to better~~
12 ~~equip real estate related professionals to pursue opportunities for conservation, to increase~~
13 ~~landowner participation in land and water conservation, and to provide an opportunity to leverage~~
14 ~~private and other public monies for conservation easements.~~

15 (b) Fund Purpose. – The purpose of the Conservation Grant Fund is to stimulate the use
16 of conservation easements, to steward properties held by deed or conservation easement by the
17 State, to improve the capacity of private nonprofit land trust organizations to successfully
18 accomplish conservation projects, to better equip real estate related professionals to pursue
19 opportunities for conservation, to increase landowner participation in land and water
20 conservation, and to provide an opportunity to leverage private and other public monies for
21 conservation easements.

22 ~~(b)(c)~~ Fund Sources. – The Conservation Grant Fund shall consist of any monies
23 appropriated to it by the General Assembly and any monies received from public or private
24 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the
25 General Assembly shall revert at the end of the fiscal year unless the General Assembly otherwise
26 provides. Unexpended monies in the Fund from other sources shall not revert and shall remain
27 available for expenditure in accordance with this Article.

28 (c) Property Eligibility. – ~~In order for real property or an interest in real property to be~~
29 ~~the subject of a grant under this Article, the real property or interest in real property must meet~~
30 ~~all of the following conditions:~~

31 (1) ~~Possess or have a high potential to possess ecological value.~~

32 (2) ~~Be reasonably restorable.~~

33 (3) ~~Be useful for one or more of the following purposes:~~

34 a. ~~Public beach access or use.~~

35 b. ~~Public access to public waters or trails.~~

36 c. ~~Fish and wildlife conservation.~~

37 d. ~~Forestland or farmland conservation.~~

38 e. ~~Watershed protection.~~

39 f. ~~Conservation of natural areas, as that term is defined in G.S.~~
40 ~~143B-135.254(3).~~

41 g. ~~Conservation of predominantly natural parkland.~~

42 (4) ~~Be donated in perpetuity to and accepted by the State, a local government, or~~
43 ~~a body that is both organized to receive and administer lands for conservation~~
44 ~~purposes and qualified to receive charitable contributions under G.S.~~
45 ~~105-130.9. Land required to be dedicated pursuant to local governmental~~
46 ~~regulation or ordinance and dedications made to increase building density~~
47 ~~levels permitted under a regulation or ordinance do not qualify.~~

48 (c1) Grant Eligibility. – State Conservation properties, as described in G.S. 113A-235,
49 State conservation land management agencies, local government conservation land management
50 agencies, and private nonprofit land trust organizations are eligible to receive grants from the

1 Conservation Grant Fund. Private nonprofit land trust organizations must be certified under
2 section 501(c)(3) of the Internal Revenue Code to aid in managing the land.

3 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for the
4 following purposes:

5 (1) ~~The administrative costs of the Department in administering the Fund.~~
6 ~~Fund and stewardship program operations.~~

7 (2) ~~Conservation grants.~~ grants, contracts, and agreements made in accordance
8 with this ~~Article.~~ Article, including:

9 a. ~~Reimbursement for total or partial transaction costs for a donation of~~
10 ~~real property or an interest in real property from an individual or~~
11 ~~corporation satisfying either of the following:~~

12 1. ~~Insufficient financial ability to pay all costs or insufficient~~
13 ~~taxable income to allow these costs to be included in the~~
14 ~~donated value.~~

15 2. ~~Insufficient tax burdens to allow these costs to be offset by~~
16 ~~charitable deductions.~~

17 b. ~~Management support, including initial baseline inventory and~~
18 ~~planning.~~

19 c. ~~Monitoring compliance of conservation easements, the related use of~~
20 ~~riparian buffers, natural areas, and greenways, and the presence of~~
21 ~~ecological integrity.~~

22 d. ~~Education and studies on conservation properties, including~~
23 ~~information materials intended for landowners and education for staff~~
24 ~~and volunteers.~~

25 e. ~~Stewardship of conservation properties.~~

26 f. ~~Transaction costs for recipients, including legal expenses, closing and~~
27 ~~title costs, and unusual direct costs, such as overnight travel.~~

28 g. ~~Administrative costs.~~

29 h. ~~Award of grants under G.S. 113A-234.~~

30 i. ~~Enforcement and legal actions necessary to protect and remedy~~
31 ~~damages to Department-held conservation properties.~~

32 j. ~~Acquisition of conservation properties and easements.~~

33 (3) To establish an endowment account, the interest from which will be used for
34 a purpose described in G.S. 113A-233(a)."

35 **SECTION 5.(b)** G.S. 113A-233 reads as rewritten:

36 **"§ 113A-233. Uses of a grant from the Conservation Grant Fund.** ~~Endowment Account.~~

37 (a) Allowable Uses. – ~~A grant from~~ Investment income generated by the Conservation
38 Grant Fund as set forth in G.S. 113A-232(d)(3) may be used ~~only~~ to pay for one or more of the
39 following ~~costs~~:

40 (1) ~~Reimbursement for total or partial transaction costs for a donation of real~~
41 ~~property or an interest in real property from an individual or corporation~~
42 ~~satisfying either of the following:~~

43 a. ~~Insufficient financial ability to pay all costs or insufficient taxable~~
44 ~~income to allow these costs to be included in the donated value.~~

45 b. ~~Insufficient tax burdens to allow these costs to be offset by charitable~~
46 ~~deductions.~~

47 (2) ~~Management support, including initial baseline inventory and planning.~~

48 (3) ~~Monitoring compliance with conservation easements, the related use of~~
49 ~~riparian buffers, natural areas, and greenways, and the presence of ecological~~
50 ~~integrity.~~

- 1 (4) ~~Education on conservation, including information materials intended for~~
 2 ~~landowners and education for staff and volunteers.~~
 3 (5) ~~Stewardship of land.~~
 4 (6) ~~Transaction costs for recipients, including legal expenses, closing and title~~
 5 ~~costs, and unusual direct costs, such as overnight travel.~~

6 (7) ~~Administrative costs for short term growth or for building capacity purposes~~
 7 ~~described in G.S. 113A-232, subject to the limitation set forth in subsection (b) of this section.~~

8 (b) ~~Prohibition. – The Fund-account principle shall not be used to pay the purchase price~~
 9 ~~of real property or an interest in real property."~~

10 **SECTION 5.(c)** G.S. 113A-234 reads as rewritten:

11 **"§ 113A-234. Administration of grants.**

12 (a) ~~Grant Procedures and Criteria. – The Secretary of the Department of Environmental~~
 13 ~~Quality shall establish the procedures and criteria for awarding grants from the Conservation~~
 14 ~~Grant Fund. The criteria shall focus grants on those areas, approaches, and techniques that are~~
 15 ~~likely to provide the optimum positive effect on environmental protection. The Secretary shall~~
 16 ~~make the final decision on the award of grants and shall announce the award publicly in a timely~~
 17 ~~manner.~~

18 (b) ~~Grant Administration. – The Secretary may administer the grants under this Article~~
 19 ~~or may contract for selected activities under this Article. If administrative services are contracted,~~
 20 ~~the Department shall establish guidance and criteria for its operation and contract with a statewide~~
 21 ~~nonprofit land trust service organization."~~

22 **SECTION 5.(d)** G.S. 113A-235 reads as rewritten:

23 **"§ 113A-235. Conservation easements, properties.**

24 (a) ~~Property Eligibility. – In order for real property or an interest in real property to be~~
 25 ~~eligible for a grant as set forth in this Article as a conservation property, the real property or~~
 26 ~~interest in real property must meet all of the following conditions:~~

27 (1) ~~Possess or have a high potential to possess ecological value.~~

28 (2) ~~Be reasonably restorable, previously restored, or a high-quality preservation.~~

29 (3) ~~Be useful for one or more of the following:~~

30 a. ~~Public beach access or use.~~

31 b. ~~Public access to public waters or trails.~~

32 c. ~~Fish and wildlife conservation.~~

33 d. ~~Forestland or farmland conservation.~~

34 e. ~~Watershed protection or improvement.~~

35 f. ~~Conservation of natural areas, as that term is defined in~~
 36 ~~G.S. 143B-135.254(3).~~

37 g. ~~Conservation of predominantly natural parkland.~~

38 (4) ~~Be purchased on behalf of, donated or assigned in perpetuity to, and accepted~~
 39 ~~by the State, a local government, or a body that is both organized to receive~~
 40 ~~and administer lands for conservation purposes and qualified to receive~~
 41 ~~charitable contributions under G.S. 105-130.9. Land required to be dedicated~~
 42 ~~pursuant to local governmental regulation or ordinance and dedications made~~
 43 ~~to increase building density levels permitted under a regulation or ordinance~~
 44 ~~do not qualify.~~

45 ~~(a)(a1) Acquisition and Protection of Conservation Easements, Properties. – Ecological~~
 46 ~~systems and appropriate public use of these systems may be protected through conservation~~
 47 ~~easements, including conservation agreements under Article 4 of Chapter 121 of the General~~
 48 ~~Statutes, the Conservation and Historic Preservation Agreements Act, and conservation~~
 49 ~~easements under the Conservation Reserve Enhancement Program. The Department may acquire~~
 50 ~~conservation properties and easements by purchase, gift, or assignment, in accordance with~~
 51 ~~G.S. 146-22. The Department of Environmental Quality shall work cooperatively with State and~~

1 local agencies and qualified nonprofit organizations to monitor compliance with conservation
2 easements and conservation agreements and to ensure the continued viability of the protected
3 ecosystems. Soil and water conservation districts established under Chapter 139 of the General
4 Statutes may acquire easements under the Conservation Reserve Enhancement Program by
5 purchase or gift.

6"

7 **SECTION 5.(e)** Article 16 of Chapter 113A of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 113A-236. Contributions to the Conservation Grant Fund.**

10 (a) For conservation property interests donated or assigned to the Department, a
11 contribution shall be made to the Fund for the long-term management of the property. The
12 contribution shall be made at the time the property interest is transferred to the Department and
13 shall meet or exceed the minimum amount determined by the Department to be sufficient for
14 managing and stewarding the property in perpetuity. In no case will the Department be obligated
15 to accept a conservation property interest.

16 (b) The Secretary shall establish procedures and adopt rules for the calculation and
17 collection of the minimum contribution to the Fund required by the Department."

18 **SECTION 5.(f)** This section is effective when it becomes law.

19
20 **ALLOW REVENUE GENERATED FROM TIMBER SALE TO BE RETAINED IN A**
21 **NONREVERTING ACCOUNT FOR A PERIOD OF FOUR YEARS**

22 **SECTION 6.** Section 14.3 of S.L. 2015-241 reads as rewritten:

23 **"SECTION 14.3.** The Department of ~~Environment and Natural Resources'~~ Environmental
24 Quality's Stewardship Program may retain revenue generated from timber harvesting on the
25 Great Coharie property in the Conservation Grant Endowment Interest Fund (6705) for the
26 purpose of restoration and stewardship of that property and these funds are hereby appropriated
27 for that purpose. Any unused portion of this revenue remaining in the Fund on ~~June 30, 2019,~~
28 June 30, 2021, shall revert to the General Fund."

29
30 **EFFECTIVE DATE**

31 **SECTION 7.** Except as otherwise provided, this act is effective July 1, 2019.