



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 486: NC Trail Expansion/Economic Corridors

2015-2016 General Assembly

Committee:	Senate Re-ref to Agriculture/Environment/Natural Resources. If fav, re-ref to Appropriations/Base Budget. If fav, re-ref to Finance	Date:	May 20, 2015
Introduced by:	Sens. Brock, Barringer, Alexander	Prepared by:	Jennifer McGinnis Committee Counsel
Analysis of:	PCS to First Edition S486-CSSB-8 [v.10]		

SUMMARY: *The Proposed Committee Substitute (PCS) for Senate Bill 486 would:*

- *Establish the North Carolina Trails Management Trust Fund (Trails Fund) 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;*
- *Authorize the Department of Environment and Natural Resources (DENR) to add a reasonable surcharge on fees authorized under current law for use of facilities and conveniences associated with State parks and State lakes, and credit funds received from the surcharge to the Trails Fund;*
- *Amend provisions governing both the North Carolina Travel and Tourism Board and the Economic Development Accountability & Standards Committee;*
- *Authorize DENR and the Department of Cultural Resources (DCR) to use a "dynamic pricing" strategy to establish admission fees and related activity fees for attractions under their purview;*
- *Authorize DENR's Division of Parks and Recreation to operate, or contract for the operation of, food or vending services at State parks, and exempt such activities from a statute that gives preference for operation of vending facilities to blind persons;*
- *Authorize DENR to add the Fonta Flora Loop Trail, which would surround Lake James in Burke County, to the State Parks System;*
- *Direct various State agencies to conduct a number of studies;*
- *Modify the applicability of several environmental restrictions to activities related to the construction, maintenance, or removal of a trail;*
- *Direct the Department of Administration to enter into an agreement to convey certain State-owned real property in exchange for certain real property owned by the Raleigh-Durham Airport Authority in and around William B. Umstead State Park and Lake Crabtree.*

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BILL ANALYSIS:

PART I. NORTH CAROLINA TRAILS MANAGEMENT TRUST FUND

Section 1 of the PCS would create the North Carolina Trails Management Trust Fund as a special revenue fund in the Department of Environment and Natural Resources (DENR), but provides that if the State Parks System is transferred to another State agency, then the Trails Fund would be transferred to that State agency. Any investment earnings credited to assets of the Fund would become part of the Fund, and any balance remaining in the Fund at the end of any fiscal year would not revert but would be carried forward in the Fund for the next succeeding fiscal year.

The purpose of the Fund would 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, would review all applications for funds and approve or reject projects for funding.

Revenue for the North Carolina Trails Management Fund would come from:

- (1) Any funds appropriated by the General Assembly.
- (2) A new surcharge authorized under the PCS. DENR would be permitted to add a reasonable surcharge on fees authorized under current law for use of facilities and conveniences associated with State parks and State lakes, including:
 - The erection, maintenance, and use of docks, piers, and any other structures permitted in or on State lakes.
 - Fishing privileges in State parks and State lakes.
 - Vehicle access for off-road driving at the beach at Fort Fisher State Recreation Area.
 - The erection, maintenance, and use of a marina at Carolina Beach.
 - The use of boats and other watercraft that are purchased and maintained by DENR.

For the first year, the surcharge could not exceed \$1.00. Thereafter, the surcharge could be increased or decreased as necessary in the discretion of the Secretary of Environment and Natural Resources, but could not be less than 50¢.

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

This section would also direct DENR, or any other department given responsibility for State parks, to implement a revised fee schedule for all fees (including the surcharge) authorized at parks and trails within the State Park System no later than January 1, 2016, and would exempt implementation of the fees from rule making requirements under the Administrative Procedure Act.

Moneys from the Fund would be allocated as follows:

- 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.
- 35% to acquire fee simple title, lesser estates, easements, leases, or other written agreements with owners of private land for the purpose of completing connections of local and regional greenways and trails to the Mountains-to-Sea Trail.

Senate Bill 486

Page 3

The PCS would require that moneys from the Fund be expended in the following order of priority:

- (1) Acquisition of property for trail corridors.
- (2) Trail construction, not to include paving.
- (3) Maintenance, repairs and renovations, and related ancillary facilities.

PART II. TRAVEL AND TOURISM BOARD; ECONOMIC DEVELOPMENT ACCOUNTABILITY & STANDARDS COMMITTEE

Section 2 would:

- Revise the duties of the North Carolina Travel and Tourism Board (Board), reduce its membership from 29 to 15 individuals, and otherwise modify membership requirements. This section would be effective when it becomes law, and terms of appointees serving on the Board on that date would expire, but members may continue to serve until new members are appointed under this section.
- Would modify the membership of the Economic Development Accountability & Standards Committee, created in 2014, to add the chair of the Board and eliminate a member appointed by the General Assembly upon joint recommendation of the House and Senate. In addition, the PCS would direct that the Committee forward any audit performed at the request of the Committee of the records of the Economic Development Partnership of North Carolina to the Board.

PART III. DYNAMIC PRICING FLEXIBILITY

Section 3 would require DENR to establish admission fees and related activity fees for the North Carolina Zoological Park, State parks, and the North Carolina Aquariums using a dynamic pricing strategy. In addition, the Department of Cultural Resources (DCR) would be required to use a dynamic pricing strategy to establish admission fees and related activity fees for historic sites and museums, and the Department of Agriculture and Consumer Services (DACS) would be required to use a dynamic pricing strategy to establish admission fees and related activity fees for State forests. The PCS defines "dynamic pricing" as the "adjustment of fees for admission and related activities from time to time to reflect marketing forces, including seasonal variations and special event interests, with the intent and effect to maximize revenues from use of these State resources to the extent practicable to offset appropriations from the General Assembly." DENR, DCR, and DACS would be required to report on the implementation of the new pricing strategy to the Environmental Review Commission (ERC), no later than March 1, 2016. The section would be effective when it becomes law, and apply to admission fees or related activity fees charged on or after that date.

PART IV. FOOD/VENDING SERVICES

Section 4 would:

- Exempt DENR's Division of Parks and Recreation (Division) from the requirements of Article 3 of Chapter 111 of the General Statutes, and authorize the Division to operate or contract for the operation of food or vending services at State parks. The net revenue generated by food and vending services provided at State parks operated by the Division or a vendor with whom the Division has contracted would be used for the operation of the parks.

Senate Bill 486

Page 4

Article 3 of Chapter 111 of the General Statutes generally requires that:

- State agencies to, upon the request of the Department of Health and Human Services (DHHS), give preference to blind persons in the operation of vending facilities on State property.
- State agencies must provide, without charge, proper space, plumbing, lighting, and electrical outlets for the vending facility, as well as necessary utilities, janitorial service, and garbage disposal for the operation of the vending facility. Space and services for the vending facilities must be provided without charge.
- Profits from coin-operated vending machines secured by DHHS be used for the support of programs that enable blind and visually impaired people to live more independently, including medical, rehabilitation, independent living, and educational services offered by the Division of Services for the Blind.

Food service at the North Carolina aquariums, and museums and historic sites, are currently exempt from these requirements.

- Direct the Division to:
 - Study the feasibility of operating kiosk-type gift shops at State parks that offer park-related merchandise for purchase in unmanned vending machines.
 - Issue a Request for Proposal (RFP) from vendors who would own, install, and maintain the vending machines in exchange for a portion of the revenue derived from sales. The PCS would provide that if the Division enters into such a contract, 25% of the net proceeds derived from vending machine sales would be credited to the North Carolina Trails Management Trust Fund.

PART V. PROPERTY MANAGEMENT

Section 5(a) would authorize DENR to add the Fonta Flora Loop Trail to the State Parks System, and direct DENR to support, promote, encourage, and facilitate the establishment of trail segments on State park lands and on lands of other federal, State, local, and private landowners. The PCS specifically provides that on segments of the Fonta Flora Loop Trail that cross property controlled by agencies or owners other than DENR's Division of Parks and Recreation, the laws, rules, and policies of those agencies or owners would govern the use of the property. The Fonta Flora Loop Trail would surround Lake James in Burke County.

Sections 5(b) through 5(g) would direct the Department of Administration to identify all State-owned property located within five miles of either side of the center line of the Mountains-to-Sea Trail, and provide a written inventory of all properties identified to the ERC no later than March 1, 2016. In addition, these sections would require that several agencies conduct studies on various topics and report their findings, including any legislative proposals, to the ERC no later than March 1, 2016, as follows:

- DENR's Division of Parks and Recreation, in consultation with the North Carolina Trails Committee, to identify in its Mountains-to-Sea Trail master plan all municipal and regional trail systems and greenways that connect with, or have the potential to connect with, the Mountains-to-Sea Trail. The plan must include potential time lines, funding needs, regulatory hurdles, and any other issues related to interconnection of these systems.
- The Division to study the feasibility of expanding the marinas at Jordan Lake and Falls Lake.
- DENR to study the feasibility of leasing property of the North Carolina Zoological Park to a private developer for construction of a hotel/conference facility immediately adjacent to the African Savanna exhibit, including the possibility of providing a direct entrance to the Zoo from

Senate Bill 486

Page 5

the facility via a foot bridge. The study must include consideration of potential lease terms and any limitations created by existing statutes or rules.

- DENR to study economic development opportunities for the Oregon Inlet Lifesaving Station related to fishing, boating, camping, hiking, general outdoor activities, lodging, special event rental, and other tourism-related economic development. The study must include consideration of potential lease terms and any limitations created by existing statutes or rules.
- The Wildlife Resources Commission to study the feasibility of leasing Mattamuskeet Lodge and adjacent properties to a private developer for opportunities related to hunting, fishing, boating, camping, hiking, general outdoor activities, and other tourism-related economic development. The study must include consideration of potential lease terms and any limitations created by existing statutes, rules, or federal policies.

PART VI. PROMOTE TRAIL CREATION

Section 6 would:

- Exempt activities related to the construction, maintenance, or removal of a trail from environmental regulation, except as required by federal law. In addition the Section would provide that these activities would be allowed within riparian buffers and other types of vegetative buffers for the protection of water quality.
- Provide that a trail would not be treated as "built-upon area" for purposes of stormwater management.
- Allow activities related to the construction, maintenance, or removal of a trail within riparian buffers and other types of vegetative buffers for the protection of water quality.

PART VII. AUTHORIZE EXCHANGE OF REAL PROPERTY IN AND AROUND UMSTEAD STATE PARK AND LAKE CRABTREE

Section 7 would direct the Department of Administration to enter into an agreement to convey certain real property owned by the Raleigh-Durham Airport Authority (described by Section 7(c) of the PCS) in exchange for conveyance of certain State-owned real property (described by Section 7(d) of the PCS). The PCS identifies parcels to be conveyed through reference to a map dated April 14, 2015, and associated polygons on that map, as well as list of each parcel's total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System. The PCS directs that this map and list of coordinates must be filed in the State Property Office.

- Parcels to be conveyed by the Raleigh-Durham Airport Authority to the State would include the following parcels as denoted on the map:
 - Polygon E - approximately 1.96 acre parcel
 - Polygon G - approximately 29.66 acre parcel
 - Polygon H - approximately 11.21 acre parcel
 - Polygon I - approximately 332.01 acre parcel
 - Polygon J - approximately 13.57 acre parcel
 - Polygon K - approximately 1.6 acre parcel

Senate Bill 486

Page 6

- Parcels to be conveyed by the State to the Raleigh-Durham Airport Authority would include the following parcels as denoted on the map:
 - Polygon A - approximately 10.61 acre parcel
 - Polygon B - approximately 1.22 acre parcel
 - Polygon C - approximately 22.81 acre parcel
 - Polygon D - approximately 5.28 acre parcel
 - Polygon F- approximately 206.05 acre parcel
 - Polygon O - approximately 4.76 acre parcel
 - Polygon P - approximately 10.01 acre parcel
 - Polygon Q - approximately 2.91 acre parcel
 - Polygon R- approximately 66.62 acre parcel

In connection with the exchange, among other things, the PCS would:

- Require that fair market value be established for each property to be conveyed, and provide that if the monetary value of properties being conveyed to the Raleigh-Durham Airport Authority by the State of North Carolina is greater than the value of the properties being conveyed to the State from the Raleigh-Durham Airport Authority, the Raleigh-Durham Airport Authority must pay the difference in value to the State, for deposit to the General Fund.
- Provide that if the real property described in Section 7(c) of the act is conveyed by the Raleigh-Durham Airport Authority to the State, that property would be incorporated into William B. Umstead State Park, and dedicated to the State Nature and Historic Preserve (Preserve) pursuant to Section 5 of Article XIV of the North Carolina Constitution and in conformance with the requirements of G.S. 143-260.8.

Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the Preserve by a law enacted by a three-fifths vote of the members of each house of the General Assembly. The Preserve is intended to ensure that lands and waters acquired and preserved for public park, recreation, conservation, and historic preservation purposes continue to be used for these purposes. Upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house. G.S. 113-44.14 provides conditions and procedures for additions to, and deletions from, the State Parks System that must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.

- Remove several tracts in the William B. Umstead State Park (Park) from the Preserve. As noted in the previous paragraph, upon inclusion in the Preserve, these lands may not be used for other purposes except as authorized by a law enacted by a vote of three-fifths of the members of each house. As these tracts would be conveyed by the State to the Raleigh-Durham Airport Authority under the exchange, and used for purposes inconsistent with the Preserve, they must be removed from the Reserve prior to exchange. The tracts include:
 - Polygon C - approximately 22.81 acre portion of the northern portion of the Park.
 - Polygon D - approximately 5.28 acre portion of the western portion of the Park.
 - Polygon F - approximately 206.05 acre portion of the westernmost portion of the Park.
- Require conveyance of an approximately 40.82 acre portion, more or less, of Department of Transportation right-of-way previously acquired for the Duraleigh Connector to North Carolina State University for inclusion into Schenck Forest.

Senate Bill 486

Page 7

- Exempt properties to be conveyed by the State of North Carolina to the Raleigh-Durham Airport Authority from: (i) any divestiture restrictions set forth in earlier session laws, and authorize divestiture upon approval from a simple majority vote of the Raleigh-Durham Airport Authority Board; and (ii) lease restrictions set forth in earlier session laws, and generally authorize leasing of such land for a period not to exceed 60 years upon approval from a simple majority vote of the Raleigh-Durham Airport Authority.
- Preserve lease obligations currently in place for certain properties to be conveyed under the act for specified periods of time.
- Authorize the Secretary of the Department of Administration (Secretary) to negotiate the terms of exchange agreement necessary to effectuate the provisions of this act. Among other things, this provision specifically provides that if any individual property identified by the act cannot be conveyed due to federal restrictions applicable to the property, that property must be omitted from the exchange and all other properties identified by the act would remain subject to the agreement.
- Direct the Secretary to ensure that the map referenced by Section 7, dated April 14, 2015, which includes a description of the total approximate boundary defined by longitudinal and latitudinal mapping coordinates established using the NAD83(2011) State Plane Coordinate System for each property identified therein is filed in the State Property Office.
- Require the Secretary to report to the Joint Legislative Commission on Governmental Operations on the terms of the agreement within 30 days of its execution.
- Provide that, notwithstanding any provision of the Nature Preserves Act, or statutes governing disposition of State lands, or any other provision of law, neither the Governor nor the Council of State would be required to approve any conveyance or exchange under the section, nor would consultation with or reporting to the Joint Legislation Commission on Governmental Operations be required prior to the conveyance or exchange.
- Require the Attorney General to execute any documents or deeds necessary to effectuate the conveyances within 30 days of the exchange agreement's execution.

The PCS provides that, with the exception of the direction to the Secretary to negotiate the terms of an exchange agreement, the other requirements of Section 7 would only become effective upon a simple majority vote of the Raleigh-Durham Airport Authority to proceed with the exchange of property identified by the Section.

PART VIII. SEVERABILITY CLAUSE AND EFFECTIVE DATE

Section 8(a) would add a severability clause to the bill.

Section 8(b) would provide that the PCS would be effective when it becomes law, except as otherwise specified.