



# SENATE BILL 545: State Nature and Historic Preserve Adds/Dels.

2017-2018 General Assembly

**Committee:**

**Introduced by:** Sens. Hise, Britt

**Analysis of:** Second Edition

**Date:**

June 22, 2017

**Prepared by:**

Jennifer McGinnis  
Staff Attorney

**OVERVIEW:** *Senate Bill 545 would remove two parcels from the State Nature and Historic Preserve (Preserve).*

**CURRENT LAW:** Section 5 of Article XIV of the Constitution of North Carolina provides for addition of properties to and removal of properties from the State Nature and Historic 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 insure 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. 143-260.8 provides conditions and procedures for additions to, and deletions from, the Preserve, which must be authorized by the General Assembly. G.S. 143-260.10 lists the current components of the Preserve.

**BACKGROUND:** Properties were last accepted into the Preserve in 2014. Since that time over 7,900 acres have been added to the North Carolina Park System. The Council of State met on May 2, 2017 and approved a petition for the General Assembly to accept into the Preserve various State parklands and historic sites. The petition is slated to also include a request to delete certain parcels from dedication in the Preserve for various reasons (in order to improve the management of units, allow for existing road relocations, allow for utility easements and cell towers, etc).

**BILL ANALYSIS:** The bill would except from dedication and/or delete from the Preserve two parcels as follows:

- New River State Park: This clause excepts an area totaling approximately 1.011 acres for a non-exclusive access easement across State-owned lands. The access easement was in existence prior to State ownership, and its use was prescriptive. However, the adjoining landowner requested a permanent recorded easement for insurance purposes.
- Chimney Rock State Park: This clause excepts a parcel on which an existing communications tower is present. When this property was originally acquired by the State, the communications tower site was under lease for use by the State Highway Patrol and UNC-TV. The lease has expired, but an interagency agreement has been executed to allow the State Highway Patrol and UNC-TV to continue use the parcel in question for a communications tower, however, the tower subject to the former lease is in need of replacement, thus it will be replaced with a new tower in a location with easier road access, less visual impact, and less overall impact on the Park. As communication towers and tower sites are not public purposes specified in Article XIV, Section

Karen Cochrane-Brown  
Director



Legislative Analysis  
Division  
919-733-2578

# Senate Bill 545

Page 2

5, of the North Carolina Constitution, and the applicable provisions of the General Statutes that govern properties in the Preserve, this tract must be deleted.

- Lumber River State Park: This clause excepts two small tracts totaling approximately 1.2 acres needed for an exchange of property with the adjacent church. When survey work was done on a recent addition to the State Park, graves from the church's cemetery were found on State Park property. This property will be exchanged for frontage along the Lumber River.
- Lumber River State Park: This clause excepts two small tracts totaling approximately 2.12 acres needed for the installation of an electrical transmission line to service the local community. This transmission line is being relocated from a highly wooded area for ease of repair and service restoration during an outage.
- Carvers Creek State Park: This clause excepts two areas totaling approximately 0.33 acres for a non-exclusive access easement across State-owned lands. The access easement, known as "Elliot Road", was in existence prior to State ownership, and its use was prescriptive. However, the adjoining landowner requested a permanent recorded easement for insurance purposes.

**EFFECTIVE DATE:** This bill would be effective when it becomes law.