



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

2017-2018 General Assembly

<b>Committee:</b>		<b>Date:</b>	September 13, 2017
<b>Introduced by:</b>		<b>Prepared by:</b>	Jennifer McGinnis Staff Attorney
<b>Analysis of:</b>	S.L. 2017-113		

**OVERVIEW:** *S.L. 2017-113 removes several parcels from the State Nature and Historic Preserve (Preserve). This act became effective July 12, 2017.*

**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 act excepts from dedication and/or deletes 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

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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.
- Mayo River State Park: This clause excepts 5 tracts, totaling 9.91 acres, to allow construction of an access bridge from a tract or parcel of land owned by the State of North Carolina over the Mayo River, which bridge must be of sufficient width to allow emergency vehicle and State Park vehicle access for the purpose of addressing public safety issues and service vehicle access to monitor, maintain, repair, or replace the existing sewer line traversing portions of Mayo River State Park. The act requires that the State must grant any easements necessary to the Town of Mayodan for construction of the bridge, and ancillary parking facilities, and for maintenance and repair of existing sewer lines traversing land at Mayo River State Park, and prohibits imposition of any fee, royalty, or other cost for the grant of the easements. Approval of the Council of State for the granting of easements for the facility is not required under the act. In addition, no later than May 1, 2017, the act requires that the State must survey the State lands necessary for construction of the bridge, and maintenance and repair of existing sewer lines traversing land in the Park. With respect to any environmental permits required for construction of the facility, the Department of Environmental Quality is directed to expedite permitting of the project to the extent allowed by law and must waive any application fees that would be otherwise applicable to applications for permits required for the facilities and, where possible under applicable law, issue all permits within 40 days of receipt of a complete application.

**EFFECTIVE DATE:** This act became effective July 12, 2017. 2