



SENATE BILL 381: Reconstitute & Clarify Environmental Boards.

2019-2020 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 17, 2019
Introduced by:	Sens. Wells, Woodard, Edwards	Prepared by:	Shawn Middlebrooks Staff Attorney*
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 381 would make several changes to the Clean Water Management Trust Fund (CWMTF), and reconstitutes the CWMTF Board of Trustees and the Parks and Recreation Authority.

CURRENT LAW & BACKGROUND: The Clean Water Management Trust Fund (CWMTF) Board of Trustees and the Parks and Recreation Authority were held to be unconstitutionally constituted, pursuant to the holdings in *McCrary v. Berger* and *Cooper v. Berger*.

BILL ANALYSIS: Section 1.(a) of this bill would rewrite the statutes governing the Clean Water Management Trust Fund (CWMTF) to reconstitute the Board of Trustees and make various other changes. The changes to this Part are as follows:

- Designates "Land and Water Fund" as an alternative name for the CWMTF.
- Allows the CWMTF to receive money from hazard mitigation funds from FEMA and other agencies.
- Clarifies Fund Purposes to prevent encroachment, provide buffers, and preserve natural habitats around military installations, and adds a new purpose to protect and restore floodplains and wetlands.
- Reconstitutes the CWMTF Board to provide the Governor more appointments and to add removal authority for misfeasance, malfeasance, or nonfeasance.

Appointer	Previous # of Appointments	Proposed # of Appointments
President Pro Tem	3	2
Speaker of the House	3	2
Governor	3	5

- Adds new development grant criteria, requiring the CWMTF Board to consider:
 - The objectives of basinwide integrated water management plans.
 - The value of preserving water supply capacity by preventing sedimentation and nutrient pollution.
 - The rate and likelihood of land-use change and development.
- The development grant criteria also directs the CWMTF Board to give priority to projects that are part of comprehensive, long-term land-use plans by State agencies, local government units, or a

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nonprofit corporation dedicated to the conservation of the State cultural, environmental, or natural resources.

- Makes CWMTF employees subject to the NC Human Resources Act.
- Repeals the CWMTF Advisory Council.
- Makes conforming changes throughout.

Section 1.(b) and Section 1.(c) make conforming changes.

Section 1.(d) would repeal the Solid Waste Management Loan Program and Local Government Special Obligation Bond Act. Administration of the program was given to the CWMTF in 2011. This program has never been used or funded.

Section 1.(e) directs the CWMTF Board to report to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the Environmental Review Commission, the relevant House and Senate Appropriations subcommittees, and the Fiscal Research Division regarding the implementation of Section 1 of this bill no later than July 1, 2020.

Section 2 reconstitutes the North Carolina Parks and Recreation Authority, which administers the Parks and Recreation Trust Fund (PARTF), to provide the Governor more appointments.

Appointee	Previous # of Appointments	Proposed # of Appointments
President Pro Tem	3	2
Speaker of the House	3	2
Governor	3	5

EFFECTIVE DATE: This bill would become effective July 1, 2019. All rules, regulations, and decisions made by the predecessor boards and authorities reconstituted in the bill would remain in full force and effect until and unless duly modified the successor entities.

* *Staff Attorney Kyle Evans substantially contributed to this summary.*