



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

# SENATE BILL 381: Reconstitute & Clarify Environmental Boards.

2019-2020 General Assembly

<b>Committee:</b>	Senate Agriculture/Environment/Natural Resources. If favorable, re-refer to Rules and Operations of the Senate	<b>Date:</b>	April 3, 2019
<b>Introduced by:</b>	Sens. Wells, Woodard, Edwards	<b>Prepared by:</b>	Kyle Evans Staff Attorney
<b>Analysis of:</b>	PCS to First Edition S381-CSBR-3		

**OVERVIEW:** *The Proposed Committee Substitute (PCS) to 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 *McCrorry v. Berger* and *Cooper v. Berger*.

**BILL ANALYSIS:** Section 1.(a) of this PCS 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:

- Allows the CWMTF to receive money from hazard mitigation funds from FEMA and other agencies.
- Clarifies Fund Purposes to prevent incompatible use encroachment 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
<b>President Pro Tem</b>	3	2
<b>Speaker of the House</b>	3	2
<b>Governor</b>	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 or local government units.

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- 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)** of the PCS 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 PCS 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:** The PCS would become effective July 1, 2019. All rules, regulations, and decisions made by the predecessor boards and authorities reconstituted in the PCS would remain in full force and effect until and unless duly modified the successor entities.