

REPORT OF THE ECONOMIC DEVELOPMENT, CAPITAL IMPROVEMENT & OTHER TAXES SUBCOMMITTEE

(Loftis, Cobb-Hunter, Stavrinakis, Hardwick & Lowe - Staff Contact: AJ Newton)

HOUSE BILL 3868

H. 3868 -- Rep. Pitts: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE "WETLANDS CONSERVATION ACT"; TO AMEND SECTION 12-24-95, RELATING TO DEED RECORDING FEES, SO AS TO INCREASE THE PORTION OF A STATE DEED RECORDING FEE THAT MUST BE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND FROM TWENTY-FIVE CENTS TO THIRTY CENTS; TO AMEND SECTION 48-59-60, RELATING TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND, SO AS TO REQUIRE THAT ANY FUNDS COLLECTED BY THE SOUTH CAROLINA CONSERVATION BANK IN EXCESS OF THE AMOUNT AUTHORIZED IN THE ANNUAL APPROPRIATIONS BILL MUST BE TRANSFERRED TO THE DEPARTMENT OF NATURAL RESOURCES; TO AMEND SECTION 48-59-70, RELATING TO TRUST FUND GRANTS AND CONSERVATION CRITERIA, SO AS TO ADD ISOLATED WETLANDS AND CAROLINA BAYS TO THE CONSERVATION CRITERIA, TO ADD THE VALUE OF A PROPOSAL ON WILDLIFE MANAGEMENT AREAS OWNED AND MANAGED BY THE DEPARTMENT OF NATURAL RESOURCES TO THE CONSERVATION CRITERIA, AND TO ALLOW THE BOARD TO AUTHORIZE UP TO EIGHT AND THIRTY-THREE ONE HUNDREDTHS PERCENT OF THE MONIES CREDITED TO THE TRUST FUND TO APPLICATIONS THAT SOLELY MEET THE NEW CONSERVATION CRITERIA AND LIMIT THE AWARD OF MONEY TO APPLICATIONS FOR ACQUISITION OF INTERESTS IN LAND SOLELY FOR THE SITES OF HISTORICAL OR ARCHAEOLOGICAL SIGNIFICANCE; TO AMEND SECTION 48-59-75, RELATING TO RESTRICTIONS ON THE TRANSFER OF DEED RECORDING FEES TO THE TRUST FUND, SO AS TO PROVIDE THE TRANSFER OF RECORDING FEES AND OTHER APPROPRIATED FUNDS TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND MUST BE DECREASED BY TWICE THE AVERAGE PERCENTAGE REDUCTION OF APPROPRIATIONS TO EACH AGENCY AND DEPARTMENT IN A FISCAL YEAR WHEN THE GENERAL ASSEMBLY PROVIDES LESS APPROPRIATIONS THAN WHAT WAS PROVIDED FOR IN THE PREVIOUS YEAR TO AT LEAST ONE-HALF OF ALL STATE AGENCIES OR DEPARTMENTS.

Summary of Bill:

Section 1: Names the act the "Wetlands Conservation Act."

Section 2: Amends Section 12-24-95 to increase the portion of a state deed recording fee credited to the South Carolina Conservation Bank Trust Fund from twenty-five cents to thirty cents.

Section 3: Amends Section 48-59-60 to direct any funds collected by the Conservation Bank in excess of the amount authorized in the annual appropriations bill shall be transferred to the Department of Natural Resources for

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operation and management of Wildlife Management Areas. Department of Natural Resources will carry forward any excess funds for the same purpose.

Section 4: Amends Section 48-59-70(D) the trust fund grants and conservation criteria to add isolated wetlands and Carolina Bays to the conservation criteria. It also adds the value of proposal for acquisition, reclamation, or improvement of wetlands with its associated structures and water control devices on Wildlife Managements Areas owned by the Department of Natural Resources.

Section 5: Amends Section 48-59-70(L) to allow for eight and thirty-three one hundredths percent of the monies credited to the trust fund to applications which meet the criteria for wetlands and water control devices in Section 48-59-70(D)(13). Furthermore, no additional monies will be awarded for conservation of a site of unique historical or archaeological significance (D)(6) unless it satisfies the criteria of another subsection in (D).

Section 6: Amends Section 48-59-75 that when the General Assembly's annual general appropriation provides less appropriations to at least one-half of the state agencies then the transfer of deed recording fees and other appropriated funds to the South Carolina Conservation Bank Trust Fund must be decreased by twice the average percentage reduction of each agency.

Estimated Revenue Impact:

This bill would reallocate \$2,336,241 in revenue from the General Fund to Other Funds of the Conservation Bank Trust Fund in FY 2015-16

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Pending

Other Notes/Comments:

Conservation Bank Current Authorization: \$9,860,233

Deed Stamp collection actuals and future estimates for the Conservation Bank Trust Fund:

FY 2012-13: \$9,504,102

FY 2013-14: \$11,341,147

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FY 2014-15: \$12,577,826

FY 2015-16: \$13,546,000

FY 2016-17: \$14,589,000

FY 2017-18: \$15,712,000



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: H. 3868
 Author: Pitts
 Requestor: House Ways and Means
 Date: April 20, 2015
 Subject: Wetlands Conservation Act
 RFA Analyst(s): Wren and Stein

Estimate of Fiscal Impact

	FY 2015-16	FY 2016-17
State Expenditure		
General Fund	\$0	N/A
Other and Federal	See below	N/A
Full-Time Equivalent Position(s)	0.00	0.00
State Revenue		
General Fund	(\$2,336,241)	N/A
Other and Federal	\$2,336,241	N/A
Local Expenditure	N/A	N/A
Local Revenue	N/A	N/A

Fiscal Impact Summary

This bill would have no expenditure impact on the General Fund or Federal Funds. However, Other Fund expenditures will be impacted since this bill transfers funds from the Conservation Bank Trust Fund to the Department of Natural Resources in an amount in excess of the Conservation Bank’s annually authorized expenditure appropriation.

This bill would reallocate \$2,336,241 in revenue from the General Fund to Other Funds of the Conservation Bank Trust Fund in FY 2015-16. Additionally, depending upon the General Assembly’s appropriation to the Conservation Bank, as much as \$3,685,767 in Other Funds revenue of the Conservation Bank would be reallocated to Other Funds of the Department of Natural Resources in FY 2015-16. There would be no revenue impact on Federal Funds.

Explanation of Fiscal Impact

State Expenditure

House Bill 3868 amends Section 48-59-60, relating to the Conservation Bank Trust Fund, by requiring the Conservation Bank (agency) to transfer an amount in excess of the agency’s authorized appropriation from the Trust Fund to the Department of Natural Resources. The bill amends Section 48-59-70 by authorizing grants from the Trust to include isolated wetlands, Carolina Bays, and Wildlife Management Areas (WMA) owned and managed by the Department of Natural Resources in the eligibility criteria. The bill also authorizes up to eight and one-third percent of the monies in the Trust for acquisition and maintenance projects on WMA lands. The

bill limits grant awards to lands of historical or archaeological significance by requiring that they also meet other criteria. The bill provides that when the General Assembly reduces agency appropriations to less than what was appropriated in the previous year, the State deed recording fees transferred to the Conservation Bank and other appropriated funds shall be decreased by twice the average percentage reduction applied to other agencies.

The South Carolina Conservation Bank and the Department of Natural Resources report that this bill would have no expenditure impact on the General Fund or Federal Funds. There would be an expenditure impact on Other Funds of the Department of Natural Resources (DNR), as the bill transfers funds from the Conservation Bank Trust Fund to DNR for various projects.

State Revenue

This bill amends Section 12-24-95 by increasing the amount of the deed recording fee allocated to the South Carolina Conservation Bank Trust Fund (Trust) from twenty-five cents to thirty cents. This reduces the current seventy-five cent allocation to the General Fund to seventy cents in FY 2015-16. The current allocations credited to the Heritage Land Trust Fund and the South Carolina Housing Trust Fund are not affected. Also, this bill requires the Conservation Bank to transfer funds that are in excess of the amount authorized in the annual Appropriations Act to the Department of Natural Resources for operation and management of Wildlife Management Areas.

Based on revenue data, \$11,341,147 in state deed recording fees was credited to the Trust and \$35,383,672 was credited to the General Fund in FY 2013-14. Since this bill reallocates five cents of the deed recording fee from the General Fund to the Trust, we estimate Other Funds revenue of the Trust will increase by \$2,336,241, and General Fund revenue will be reduced by \$2,336,241 in FY 2015-16.

Based on revenue data, the Conservation Bank revenue for FY 2015-16 is estimated at \$13,546,000. The FY 2015-16 Appropriation Act as passed by the House of Representatives lists \$9,860,233 in total funds available for the Conservation Bank. Therefore, \$3,685,767 in Other Funds revenue of the Conservation Bank will be reallocated to Other Funds of the Department of Natural Resources.

Local Expenditure

N/A

Local Revenue

N/A


Frank A. Rainwater, Executive Director

South Carolina General Assembly
121st Session, 2015-2016

H. 3868

STATUS INFORMATION

General Bill

Sponsors: Rep. Pitts

Document Path: l:\council\bill\ncd\11067cz15.docx

Companion/Similar bill(s): 519

Introduced in the House on March 18, 2015

Currently residing in the House Committee on **Ways and Means**

Summary: Wetlands Conservation Act

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
3/18/2015	House	Introduced and read first time (<u>House Journal-page 42</u>)
3/18/2015	House	Referred to Committee on Ways and Means (<u>House Journal-page 42</u>)

View the latest legislative information at the website

VERSIONS OF THIS BILL

3/18/2015

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A BILL

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12 1976, SO AS TO ENACT THE "WETLANDS CONSERVATION
13 ACT"; TO AMEND SECTION 12-24-95, RELATING TO DEED
14 RECORDING FEES, SO AS TO INCREASE THE PORTION OF
15 A STATE DEED RECORDING FEE THAT MUST BE
16 CREDITED TO THE SOUTH CAROLINA CONSERVATION
17 BANK TRUST FUND FROM TWENTY-FIVE CENTS TO
18 THIRTY CENTS; TO AMEND SECTION 48-59-60, RELATING
19 TO THE SOUTH CAROLINA CONSERVATION BANK TRUST
20 FUND, SO AS TO REQUIRE THAT ANY FUNDS COLLECTED
21 BY THE SOUTH CAROLINA CONSERVATION BANK IN
22 EXCESS OF THE AMOUNT AUTHORIZED IN THE ANNUAL
23 APPROPRIATIONS BILL MUST BE TRANSFERRED TO THE
24 DEPARTMENT OF NATURAL RESOURCES; TO AMEND
25 SECTION 48-59-70, RELATING TO TRUST FUND GRANTS
26 AND CONSERVATION CRITERIA, SO AS TO ADD
27 ISOLATED WETLANDS AND CAROLINA BAYS TO THE
28 CONSERVATION CRITERIA, TO ADD THE VALUE OF A
29 PROPOSAL ON WILDLIFE MANAGEMENT AREAS OWNED
30 AND MANAGED BY THE DEPARTMENT OF NATURAL
31 RESOURCES TO THE CONSERVATION CRITERIA, AND TO
32 ALLOW THE BOARD TO AUTHORIZE UP TO EIGHT AND
33 THIRTY-THREE ONE HUNDREDTHS PERCENT OF THE
34 MONIES CREDITED TO THE TRUST FUND TO
35 APPLICATIONS THAT SOLELY MEET THE NEW
36 CONSERVATION CRITERIA AND LIMIT THE AWARD OF
37 MONEY TO APPLICATIONS FOR ACQUISITION OF
38 INTERESTS IN LAND SOLELY FOR THE SITES OF
39 HISTORICAL OR ARCHAEOLOGICAL SIGNIFICANCE; TO
40 AMEND SECTION 48-59-75, RELATING TO RESTRICTIONS
41 ON THE TRANSFER OF DEED RECORDING FEES TO THE
42 TRUST FUND, SO AS TO PROVIDE THE TRANSFER OF

1 RECORDING FEES AND OTHER APPROPRIATED FUNDS TO
2 THE SOUTH CAROLINA CONSERVATION BANK TRUST
3 FUND MUST BE DECREASED BY TWICE THE AVERAGE
4 PERCENTAGE REDUCTION OF APPROPRIATIONS TO
5 EACH AGENCY AND DEPARTMENT IN A FISCAL YEAR
6 WHEN THE GENERAL ASSEMBLY PROVIDES LESS
7 APPROPRIATIONS THAN WHAT WAS PROVIDED FOR IN
8 THE PREVIOUS YEAR TO AT LEAST ONE-HALF OF ALL
9 STATE AGENCIES OR DEPARTMENTS.

10

11 Whereas, the Isolated Wetlands and Carolina Bays Task Force (task
12 force) was established pursuant to Act 198 of 2012 with the goal of
13 reviewing, studying, and making recommendations concerning
14 issues related to isolated wetlands and Carolina Bays in South
15 Carolina; and

16

17 Whereas, the thirteen member task force reported that South
18 Carolina has approximately four hundred thousand acres of existing
19 isolated wetlands, one quarter of which are located outside of coastal
20 counties, and lost an estimated twenty-eight percent of its original
21 isolated wetlands; and

22

23 Whereas, in *Rapanos v. United States*, the Supreme Court of the
24 United States held that a Clean Water Act (CWA) permit was
25 required to make discharges into wetlands only if such wetlands
26 have a relatively permanent surface water connection or other
27 “significant nexus” to “navigable waters” under the CWA; and

28

29 Whereas, the task force reported that, for regulatory purposes,
30 “isolated wetlands” are a subset of wetlands that have no chemical,
31 physical, or biological connection to waters of the United States. It
32 is critical for South Carolina to take measures to conserve isolated
33 wetlands, including Carolina Bays, in a prudent and cost efficient
34 manner that is respectful of individual property rights; and

35

36 Whereas, the task force recommended a voluntary, incentive-based
37 approach using the South Carolina Conservation Bank as the best
38 way to preserve those bodies of water through the increase of the
39 existing document fee designated for the Conservation Bank by five
40 cents, including the presence of isolated wetlands and Carolina Bays
41 in the conservation criteria used to award Conservation Bank grants.

42 Now, therefore,

43

1 Be it enacted by the General Assembly of the State of South
2 Carolina:

3
4 SECTION 1. This act may be cited as the “Wetlands Conservation
5 Act”.

6
7 SECTION 2. Section 12-24-95 of the 1976 Code is amended to
8 read:

9
10 “Section 12-24-95. Notwithstanding the provisions of Section
11 12-24-90(B)(3) of the 1976 Code, effective July 1, 2003, ~~twenty five~~
12 2015, thirty cents of the one dollar thirty-cent state deed recording
13 fee must be credited to the South Carolina Conservation Bank Trust
14 Fund.”

15
16 SECTION 3. Section 48-59-60 of the 1976 Code is amended to
17 read:

18
19 “Section 48-59-60. (A) To receive and hold revenues of the
20 bank, there is created in the State Treasury separate and distinct
21 from all other funds the South Carolina Conservation Bank Trust
22 Fund. Earnings on the trust fund are retained in the trust fund and
23 unexpended trust fund revenues at the end of a fiscal year are carried
24 forward in the trust fund. The trust fund may receive revenues from
25 any source the General Assembly may provide by law and from
26 governmental grants and private gifts and bequests. Trust fund
27 revenues may be used only as provided in this chapter.

28 (B) Funds collected by the South Carolina Conservation Bank
29 that are in excess of the amount authorized in the annual
30 appropriations bill must be transferred by the Conservation Bank to
31 the Department of Natural Resources for operation and management
32 of Wildlife Management Areas. The Department of Natural
33 Resources shall carry forward these funds to be used for the same
34 purpose.”

35
36 SECTION 4. Section 48-59-70(D) of the 1976 Code is amended to
37 read:

38
39 “(D) For purposes of this chapter, conservation criteria include:
40 (1) the value of the proposal for the conservation of unique or
41 important wildlife habitat;
42 (2) the value of the proposal for the conservation of any rare
43 or endangered species;

1 (3) the value of the proposal for the conservation of a
2 relatively undisturbed or outstanding example of an ecosystem
3 indigenous to South Carolina;

4 (4) the value of the proposal for the conservation of riparian
5 habitats, wetlands, isolated wetlands, Carolina Bays, water quality,
6 watersheds of significant ecological value, critical aquifer recharge
7 areas, estuaries, bays or beaches;

8 (5) the value of the proposal for the conservation of
9 outstanding geologic features;

10 (6) the value of the proposal for the conservation of a site of
11 unique historical or archaeological significance;

12 (7) the value of the proposal for the conservation of an area of
13 critical, forestlands, farmlands, or wetlands;

14 (8) the value of the proposal for the conservation of an area of
15 forestlands or farmlands which are located on prime soils, in
16 microclimates or have strategic geographical significances;

17 (9) the value of the proposal for the conservation of an area
18 for public outdoor recreation, greenways, or parkland;

19 (10) the value of the proposal for the conservation of a larger
20 area or ecosystem already containing protected lands, or as a
21 connection between natural habitats or open space that are already
22 protected;

23 (11) the value of the proposal for the amount of land protected;

24 (12) the value of the proposal for the unique opportunity it
25 presents to accomplish one or more of the criteria contained in this
26 subsection, where the same or a similar opportunity is unlikely to
27 present itself in the future;

28 (13) the value of the proposal for the acquisition, reclamation,
29 or improvement of wetlands and their associated dikes, canals, water
30 control structures, and water control devices on Wildlife
31 Management Areas owned and managed by the Department of
32 Natural Resources.”

33
34 SECTION 5. Section 48-59-70(L) of the 1976 Code is amended to
35 read:

36
37 “(L)(1)The board may authorize up to ten percent of the monies
38 credited to the trust fund during the preceding fiscal year to acquire
39 interests in land that solely or primarily meet the criteria of
40 subsection (D)(6) ~~of this section~~. No other monies in the trust fund
41 may be awarded to applicants for the acquisition of interests in land
42 that meet the criteria of subsection (D)(6) unless the application also

1 satisfies other criteria contained in subsection (D) in a substantial
2 way.

3 (2) The board shall authorize at least ten percent of the monies
4 credited to the trust fund during the preceding fiscal year for the
5 acquisition of interests in land that provides public access. To the
6 extent the ten percent authorization required by this item is not met
7 in any particular year, the balance must be carried over and used for
8 acquisition of interests in land that provide public access in ensuing
9 years.

10 (3) The board may authorize up to eight and thirty-three one
11 hundredths percent of the monies credited to the trust fund after June
12 30, 2015, to applications that solely or primarily meet the criteria of
13 subsection (D)(13). No additional monies in the trust fund may be
14 awarded to applications for acquisition of interests in land that
15 solely satisfies the criteria of subsection (D)(6) unless the
16 application also satisfies other criteria contained in subsection (D)
17 in a substantial way. To implement this item, grants or loans may be
18 awarded to the Department of Natural Resources and to other
19 eligible trust fund recipients with the approval of the Department of
20 Natural Resources.”

21
22 SECTION 6. Section 48-59-75 of the 1976 Code is amended to
23 read:

24
25 “Section 48-59-75. In a fiscal year when the General Assembly in
26 the annual general appropriations act provides less appropriations
27 than what was provided for the previous year to at least one-half of
28 the state agencies or departments contained ~~therein~~ in the act or in
29 ~~any year when the Budget and Control Board orders across the board~~
30 ~~cuts to state agencies and departments in the manner provided by~~
31 ~~law, no further transfer of deed recording fees or other appropriated~~
32 ~~funds, state or local, may be credited to the trust fund for the fiscal~~
33 ~~year or balance of the fiscal year, the transfer of deed recording fees~~
34 ~~and other appropriated funds to the South Carolina Conservation~~
35 ~~Bank Trust Fund must be decreased by twice the average percentage~~
36 ~~reduction of appropriations to each agency or department, but~~
37 existing balances in the trust fund may be used as provided by
38 Chapter 59 of Title 48 of the 1976 Code.”

39
40 SECTION 7. This act takes effect upon approval of the Governor,
41 notwithstanding Section 5, which takes effect on July 1, 2015.

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