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**H. 3049**

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Summary: Department of Natural Resources

**HISTORY OF LEGISLATIVE ACTIONS**

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1/25/2011 House Member(s) request name added as sponsor: Erickson

**VERSIONS OF THIS BILL**

[12/7/2010](file:///p:\pprever\2011-12\3049_20101207.docx)

**A** **BILL**

TO AMEND SECTION 1‑30‑75, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF NATURAL RESOURCES AS AN EXECUTIVE BRANCH OF STATE GOVERNMENT, SO AS TO PROVIDE THAT THE DEPARTMENT WILL BE HEADED AND GOVERNED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE IN THE MANNER PROVIDED BY LAW AND TO PROVIDE THAT THE BOARD OF THE DEPARTMENT OF NATURAL RESOURCES ON THE EFFECTIVE DATE OF THE ABOVE PROVISION SHALL BECOME AN ADVISORY BODY; TO AMEND CHAPTER 4, TITLE 48 AND SECTIONS 48‑9‑15, 51‑17‑10, AS AMENDED, 51‑17‑50, 51‑17‑70, 51‑17‑90, 51‑17‑130, ALL AS AMENDED, 51‑18‑60, 1‑5‑40 48‑45‑80, AS AMENDED, 49‑59‑40, 49‑23‑20, 49‑25‑40, 50‑1‑5, 50‑3‑180, 50‑3‑720, 50‑3‑910, 50‑3‑1120, 50‑5‑1950, 50‑11‑20, AS AMENDED, 49‑3‑20, 49‑3‑30, 13‑11‑20, AS AMENDED, AND TO REPEAL SECTION 50‑3‑10, ALL RELATING IN PART TO THE DEPARTMENT OF NATURAL RESOURCES, SO AS TO CONFORM THESE PROVISIONS TO THE ABOVE PROVISIONS PROVIDING THAT THE DEPARTMENT OF NATURAL RESOURCES MUST BE HEADED AND GOVERNED BY A DIRECTOR APPOINTED BY THE GOVERNOR UPON THE ADVICE AND CONSENT OF THE SENATE.

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

PART I

Department of Natural Resources

SECTION 1. Section 1‑30‑75 of the 1976 Code is amended to read:

“Section 1‑30‑75. Effective on July 1, 1994, the following agencies, boards, and commissions, including all of the allied, advisory, affiliated, or related entities as well as the employees, funds, property, and all contractual rights and obligations associated with the agency, except for those subdivisions specifically included under another department, are transferred to and incorporated in, and must be administered as part of the Department of Natural Resources. The department must be divided initially into divisions for Land Resources and Conservation Districts, Water Resources, Marine Resources, Wildlife and Freshwater Fisheries, and State Natural Resources Enforcement. ~~The South Carolina Wildlife and Marine Resources Commission, as constituted on June 30, 1993, and after that time, under the provisions of Section 50‑3‑10 et seq. is the governing authority for the department:~~ Beginning July 1, 2011, the department must be headed and governed by a director appointed by the Governor, upon advice and consent of the Senate, in the manner provided by Section 1‑30‑10(B) and the board of the Department of Wildlife and Natural Resources shall become an advisory board to the department on this date in the manner provided by law:

(1) Geological Survey of the Research and Statistical Services Division of the Budget and Control Board, to include the State Geologist, formerly provided for at Section 1‑11‑10, et seq.;

(2) State Land Resources Conservation Commission, less the regulatory division, formerly provided for at Section 48‑9‑10, et seq.;

(3) South Carolina Migratory Waterfowl Commission, formerly provided for at Section 50‑11‑20, et seq.;

(4) Water Resources Commission, less the regulatory division, formerly provided for at Section 49‑3‑10, et seq.;

(5) South Carolina Wildlife and Marine Resources Commission, formerly provided for at Section 50‑3‑10, et seq.”

PART II

Conforming Amendments

SECTION 1. Chapter 4, Title 48 of the 1976 Code is amended to read:

“CHAPTER 4

Department of Natural Resources

Section 48‑4‑10. (A) The South Carolina Department of Natural Resources is created to administer and enforce the laws of this State relating to wildlife, marine resources, and natural resources and other laws specifically assigned to it. The department must be comprised of a Natural Resources Enforcement Division, a Wildlife and Freshwater Fisheries Division, a Marine Resources Division, a Water Resources Division, and a Land Resources and Conservation Districts Division. Each division of the department must have the functions and powers provided by law.

(B) All functions, powers, and duties provided by law to the former South Carolina Wildlife and Marine Resources Department, the Geological Survey Division of the Budget and Control Board, to include the State Geologist, and the South Carolina Migratory Waterfowl Committee are transferred to the Department of Natural Resources. All nonregulatory functions, powers, and duties provided by law to the former South Carolina Water Resources Commission and the State Land Resources Conservation Commission are transferred to the Department of Natural Resources. All ~~rules,~~ regulations, standards, orders, or other actions of these entities remain in effect unless specifically changed or voided by the department in accordance with the Administrative Procedures Act.

(C) All divisions are directly accountable to and subject to the Department of Natural Resources.

(D) ~~The Wildlife and Marine Resources Commission, the Land Resources Conservation Commission, and the Water Resources Commission are abolished.~~ Reserved.

Section 48‑4‑20. For the purposes of this chapter:

(1) ‘Board’ means the ~~governing body~~ advisory board of the department.

(2) ‘Department’ means the South Carolina Department of Natural Resources.

(3) ‘Director’ or ‘Executive Director’ means the administrative head of the department, appointed by the ~~board~~ Governor with the advice and consent of the Senate. The director serves at the pleasure of the Governor and may be removed by the Governor pursuant to Section 1‑3‑240(B).

Section 48‑4‑30. ~~The department shall be governed by a~~ An advisory board consisting of seven ~~non‑salaried~~ nonsalaried board members is hereby created for the department. ~~Board members of the former Department of Wildlife and Marine Resources shall serve as board members for the Department of Natural Resources until their terms expire and their successors are appointed and qualify.~~ All advisory board members ~~shall~~ must be appointed by the Governor ~~with the advice and consent of the Senate~~. One member shall be appointed from each congressional district of the state, and one shall be appointed from the state ~~at‑large~~ at large. In making appointments, race, gender, and other demographic factors ~~should~~ must be considered to ~~assure~~ ensure nondiscrimination, inclusion, and representation to the greatest extent possible of all segments of the population of the State; however, consideration of these factors in making an appointment in no way creates a cause of action or basis for an employee grievance for a person appointed or for a person who fails to be appointed. ~~Board~~ Advisory board members must possess sound moral character~~,~~ and superior knowledge in the fields of wildlife, marine, and natural resource management~~, and proven administrative ability~~.

The Governor may remove any advisory board member pursuant to the provisions of Section 1‑3‑240(B).

Terms of the members ~~shall be~~ are for four years and until their successors are appointed and qualify. If a vacancy occurs when the General Assembly is not in session, it must be filled by the Governor’s appointment for the unexpired term, subject to confirmation by the Senate at the next session of the General Assembly.

Each advisory board member, within thirty days after notice of appointment and before taking office, shall take and file with the Secretary of State the oath of office prescribed by the State Constitution.

One of the members of the advisory board shall be designated by the Governor to serve as chairman.

Section 48‑4‑40. The advisory board members shall receive reimbursement for their expenses incurred while engaged in the work of the board as provided by law for state boards and commissions.

Section 48‑4‑50. The advisory board shall ~~be vested with the duty and authority to oversee, manage, and control the operation, administration, and organization of the department subject only to the laws of this State and the United States~~ render advice and counsel, and shall perform such duties and functions as may be set by the department director after consultation with the Governor. The advisory board may hold meetings, as considered necessary by the chairman, with a majority of the board members constituting a quorum.

Section 48‑4‑60. The ~~board~~ Director of the Department of Natural Resources ~~shall appoint a director to serve at its pleasure~~ ~~who~~ shall be the administrative head of the department. The director must carry out the policies of the ~~board~~ department and administer ~~the~~ its affairs ~~of the department~~. The director may exercise all powers belonging to the ~~board~~ department ~~within the guidelines and policies established by the board~~. The director shall manage the administration and organization of the department, subject to constitutional and statutory provisions, and may appoint such assistants or deputies as the director considers necessary. The director may hire such employees as the director considers necessary for the proper administration of the affairs of the department. The director must prescribe the duties, powers, and functions of all assistants, deputies, and employees of the department.

Section 48‑4‑70. The ~~board~~ director shall:

(1) ~~hold meetings, as considered necessary by the chairman, with a majority of the board members constituting a quorum.~~ ~~The board may hold meetings, transact business, or conduct investigations at any place necessary; however, its primary office is in Columbia;~~

~~(2)~~ ~~formulate and recommend legislation to enhance uniformity, enforcement, and administration of the wildlife, marine, and natural resource laws;~~

~~(3)~~ make an annual report to the General Assembly on all matters relating to ~~its action~~ the department;

~~(4)~~(2) require those of ~~its~~ the department’s officers, agents, and employees ~~it~~ he designates to give bond for the faithful performance of their duties in the sum and with the sureties ~~it~~ he determines, and all premiums on the bonds must be paid by the ~~board~~ department;

~~(5)~~(3) pay travel expenses; and purchase or lease all necessary facilities, equipment, books, periodicals, and supplies for the performance of ~~its~~ his duties; and

~~(6)~~(4) exercise and perform other powers and duties as granted to ~~it~~ the director or imposed upon ~~it~~ the director by law.

Section 48‑4‑80. The ~~board~~ director may:

(1) ~~make rules and~~ promulgate regulations, not inconsistent with law, to aid in the performance of ~~its~~ the department’s duties. The ~~board~~ director may prescribe the extent, if any, to which these rules and regulations must be applied without retroactive effect. These regulations must be promulgated through the Department of Natural Resources.

(2) exercise all authority granted to ~~it~~ the department under the laws and regulations relating to wildlife, marine, and natural resources.

(3) conduct such hearings as may be required by law.”

SECTION 2. Section 48‑9‑15 of the 1976 Code is amended to read:

“Section 48‑9‑15. As used in this chapter:

(1) ‘Department’ means the Department of Natural Resources.

(2) ‘Division’ means Land Resources and Conservation Districts Division of the Department of Natural Resources.

(3) ‘Director’ means the administrative head of the department appointed by the ~~board~~ Governor.”

SECTION 3. Section 51‑17‑10 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑17‑10. The following words or phrases have the definition given unless clearly specified otherwise:

1. ‘~~Board of the department’ means the governing board of the Department of Natural Resources~~ Reserved.

2. ‘Department’ means the Department of Natural Resources.

3. ‘Advisory board’ means the Heritage Trust Advisory Board.

4. ‘Natural area’ means an area of land or water, or a combination thereof, generally, but not necessarily, large in size. Such an area may be in public or private ownership and shall contain relatively undisturbed ecosystems, landforms, threatened, endangered, or unique plant life or animal habitats, or other unusual or outstanding scientific, educational, aesthetic, or recreational characteristics.

5. ‘Natural feature’ means an area of land or water, or a combination thereof, which is generally, but not necessarily, small in size. Such area may be in public or private ownership and shall contain or consist of outstanding remnants or natural elements of surviving undisturbed natural ecosystems such as record size individual species of plant life, nests or rookeries, geological formations, or objects of special scientific, educational, aesthetic, or recreational character.

6. ‘Cultural area or feature’ means an area or feature which provides an outstanding example of our historical or archeological heritage. ~~Such an~~ The area or feature ~~shall~~ must be a site of special historic interest or contain outstanding remnants or elements of the way of life and significant events of our past so that through their preservation and the restoration of related existing structures, or the development of a historic area, as well as through study, investigation and examination of the material remains in that life, a record may be preserved of the interrelationship and effect between man’s activities and his surrounding environment. A cultural area or feature may be one that is either publicly or privately owned.

7. ‘Heritage Preserve’ means a natural or cultural area or feature which is ‘dedicated’ under this chapter.

8. ‘Heritage Site’ means a natural or cultural feature which has been recognized as such through ‘registration’ under this chapter.

9. ‘Dedicate or dedication’ means the process by which any natural or cultural area or feature shall be established as a Heritage Preserve in accordance with the procedures set out in Section 51‑17‑80. Dedication may result from either of the following methods, but no power of eminent domain is hereby conferred or granted to ~~the board of the department,~~ the advisory board~~,~~ or to the Department of Natural Resources under this chapter:

(a) ‘Acquisition’ means the establishment of a Heritage Preserve whereby the owner of a natural or cultural area or feature transfers the fee simple interest therein to the ~~board of the~~ department for ~~such~~ that purpose; or

(b) ‘Acceptance’ means the establishment of a Heritage Preserve whereby the owner of a natural or cultural area or feature transfers less than the fee simple interest therein to the ~~board of the department~~ Department of Natural Resources for ~~such~~ that purpose. Examples are granting of a ‘conservation or open space easement’ or the transfer of title subject to a life estate or reverter. Interests in real estate of a term of years shall not qualify for dedication under this chapter.

10. ‘Register’ or ‘registration’ means the process by which the owner of a natural or cultural feature shall enter into a written agreement with the ~~board of the department~~ Department of Natural Resources recognizing the unique and outstanding characteristics thereof in accordance with the procedures set out in Section 51‑17‑100.

11. ‘Priority areas and features list’ means the list made up of those areas and features recommended by the advisory board, and approved by the ~~board of the department~~ Department of Natural Resources, under this chapter whose preservation is of primary importance to the goals and purposes of this chapter and which are, therefore, eligible to be included as Heritage Preserves and Sites.

12. ‘The Heritage Trust Program’ means the entire system established under this chapter to provide for the inventorying, preservation, use and management of unique and outstanding natural or cultural areas and features in this State. The term ‘Heritage Trust’ means the legal trust which is created under Section 51‑17‑90.”

SECTION 4. Section 51‑17‑50 of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“Section 51‑17‑50. The Heritage Trust Advisory Board is hereby created to assist the ~~board of the department~~ Department of Natural Resources in carrying out its duties and responsibilities under this chapter. The advisory board shall consist of seventeen members who shall be chosen as follows and shall elect from its membership a chairman:

1. From the general public, six persons, one from each congressional district within the State, who shall be appointed by the Governor and serve for a term of six years. Of these six, four persons shall be from the scientific community who are recognized and qualified experts in the ecology of natural areas, and two persons shall be from the cultural community who are recognized and qualified experts in the history and archeology of the State. The term ‘expert’ does not of necessity denote a professional but one learned and interested in the field.

2. From state government, the following persons or their designees:

~~A.~~  ~~The Chairman of the board of the Department of Natural Resources;~~

~~B.~~(A) The Director of the Department of Natural Resources;

~~C.~~(B) The Director of the South Carolina Department of Park, Recreation and Tourism;

~~D.~~(C) The Director of the Land Resources Conservation Districts Division of the Department of Natural Resources;

~~E.~~(D) The Director of the South Carolina Department of Archives and History;

~~F.~~(E) The State Forester;

~~G.~~(F) The State Archeologist;

~~H.~~(G) The Director of the State Museum; and

~~I.~~(H) The Secretary of Commerce.

~~Provided, however~~ However, of the initial appointees under this section, ~~that~~ of the six persons appointed under item 1 above, two shall serve for a term of two years, two for a term of four years, and two for a term of six years.”

SECTION 5. Section 51‑17‑70 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑17‑70. The department shall act as the basic staff for ~~the board of the department and~~ the advisory board and shall have the following powers and duties:

1. The director shall select a member of his staff who shall be primarily responsible for the administration of the Heritage Trust Program.

2. The department shall supply such other staff and support services as the ~~board of the~~ department and the advisory board shall require to fulfill their duties and responsibilities under this chapter.

3. The department shall maintain a public record of any inventories or lists established under this chapter.

4. The department shall work with owners, both public and private, in the development of proposals for the dedication and recognition of natural and cultural areas and features as Heritage Preserves and Sites, and it shall keep the advisory board informed of the same in order that therefrom the advisory board may make recommendations to the ~~board of the~~ department as provided under this chapter.

5. The department shall consult with and work in cooperation with the Department of Archives and History, the State Archeologist, the Department of Parks, Recreation and Tourism and any other state, county, or local unit of government, or any private entity, or group which is or should be directly involved in the Heritage Trust Program as well as in any particular efforts to preserve or protect any specific area or feature under the provisions of this chapter. In all cases, the department shall attempt to avoid duplication of effort with other agencies and groups and shall have no mandatory authority hereunder to require action by any such body.”

SECTION 6. Section 51‑17‑90 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑17‑90. There is hereby created the South Carolina Heritage Trust, the trustee of which shall be the ~~Board of the South Carolina Department of Natural Resources~~ Director of the Department of Natural Resources. The corpus of the trust ~~shall~~ must be made up of those Heritage Preserves which the ~~board~~ director of the department considers to be of such outstanding and unique natural or cultural character so as to be significant and essential to the carrying out of the goals and purposes of this chapter and as such, to merit a greater degree of preservation than that provided by dedication. The ~~board~~ director of the department shall have authority to place into the corpus of the trust any Heritage Preserve that ~~it~~ the director feels meets this criteria and which has been recommended for inclusion therein by the advisory board. The beneficiaries of this trust are and ~~shall~~ must be the present and future generations of citizens of the State, more particularly those present and future citizens residing within a close proximity to any area or feature which itself, or an interest therein, becomes, constitutes, or comprises a part of the corpus of ~~such~~ the trust and who actually enjoy use of ~~such~~ the area or feature; and further and more particularly, those present and future students, teachers, and persons residing in the State who are concerned with conservation or with research in any facet of ecology, history, or archeology and who actually utilize any such area or feature for the promotion of such interest.

Wherever the term ‘area or feature’ is used in this section, it shall include ‘or interests therein’. The following, except as otherwise expressly provided, shall constitute substantive terms of the trust and apply to any area or feature which becomes a part of the corpus thereof:

1. Upon approval by the ~~board~~ director of the department of the inclusion of a Heritage Preserve in the corpus of the South Carolina Heritage Trust, ~~such~~ the transfer ~~shall~~ must be recorded in the county in which the property is located and shall establish conclusive proof that ~~such~~ the area or feature is suitable for preservation and protection under this chapter and constitutes a part of the corpus of the South Carolina Heritage Trust.

2. In any case wherein the previous owner of a Heritage Preserve has restricted ~~such~~ the area or feature from inclusion in the South Carolina Heritage Trust, or where the previous owner has withheld an interest therein such as a life estate or reverter, the Heritage Preserve involved ~~shall~~ may not be allowed to become a part of the corpus of the South Carolina Heritage Trust unless at a subsequent time ~~such~~ the approval is obtained from ~~such~~ the person or his successor in interest.

3. Upon the approval by the ~~board~~ director of the department of the inclusion of any Heritage Preserve in the South Carolina Heritage Trust and the transfer of the title or interest held by the ~~board~~ director of the department therein to the trust, subject to the provisions of item 2 of this section, legal title to such area or feature ~~shall~~ must be conveyed to the trustee of the South Carolina Heritage Trust and the equitable, or beneficial ownership, shall rest in those beneficiaries previously stated and described, whether ~~such~~ the property was owned by a private or public source prior to dedication.

4. Upon approval by the advisory board~~, the department,~~ and the ~~board~~ director of the department, ~~and~~ any agency of the State is hereby authorized to enter into agreement in advance with any person, firm, corporation, legal entity of government, or any private group that any particular area or feature ~~shall~~ must be conveyed to the trustee in trust under the provisions of this chapter.

5. Upon approval by the ~~board~~ director of the department of inclusion of any Heritage Preserve into the corpus of the South Carolina Heritage Trust, the advisory board shall review the management plan therefor as well as the ‘Dedication Agreement’ and any other sources of information which it may consider appropriate. Upon approval thereof by the ~~board~~ director of the department~~, the department,~~ or that agency or group assigned management responsibilities therefor, shall manage the property in accordance therewith. Except to the extent expressly otherwise provided in the ‘Dedication Agreement’, the following substantive terms ~~shall~~ must be deemed to be set forth in the conveyance to the Heritage Trust and the trustee shall hold ~~such~~ the property in trust subject to ~~such~~ the terms:

(a) The essential natural character of the property ~~shall~~ must be maintained.

(b) There shall be no erection of any improvements thereon except those minimal improvements necessary for the security, safety, or convenience of the public and those required for maintenance and management.

(c) Cutting or burning of timber, wood or other destruction of flora or fauna ~~shall~~ must be permitted only for conservation or regeneration of flora or fauna; or for the control of plant succession by deliberate manipulation for restoration of preservation of a particular vegetation type or of an endangered species of flora, fauna, or wildlife; or for the establishment and maintenance of nature and hiking trails, camping areas, and the like where compatible and consistent with the character of the area or feature concerned and not seriously damaging or detrimental to the natural quality of the property.

(d) No stream shall be dammed or have its course altered.

(e) No motorized vehicles shall be permitted on the property other than those utilized by the trustee or its agents in management and protection of the property or used by the general public for ingress and egress to the property in compliance with the management plan for the area or feature concerned.

(f) No change shall be made in the general topography of the area or feature except for those minimal alterations which may be necessary to provide on‑foot access to the public for visitation, or observation; and this shall be done only where wholly compatible and consistent with the character of the property and where no detrimental effect shall result.

(g) No activity shall be allowed or permitted which might pollute any stream, body of water, or the atmosphere.

(h) No signs, billboards or other advertising of any kind shall be erected; however, informational and directional signs related to the designation of the area or feature as a Heritage Preserve and related to the public’s enjoyment thereof shall be allowed when approved by the trustee.

(i) No other acts or uses which are detrimental to the retention of the property in its natural state shall be allowed, including those detrimental to flood control, drainage, water conservation, erosion control or soil conservation, or fish or wildlife habitat preservation.

(j) Where cultural areas or features are involved, reasonable excavation, improvement and the like shall be allowed for research purposes as well as to restore such area or feature.

(k) The trust shall continue in perpetuity.

(l) Nothing in this chapter shall be interpreted as restricting the use of an existing or any future easement, express or implied, in favor of any utility or other holder of an easement for public purposes.

6. Those natural and related cultural areas and features which are acquired as Heritage Preserves in accordance with the trust provisions of this chapter are hereby declared to be as such at their highest, best and most important use for the public benefit. The State, any agencies thereof, local or county entities of government, or public utility which has the power of condemnation by law may acquire by purchase, gift, or eminent domain an easement or other interest in any property comprising a part of the corpus of the Heritage Trust; ~~provided,~~ however, ~~that~~ before any such condemnation shall occur, a court of competent jurisdiction shall determine the following:

(1) there is an unavoidable and imperative public necessity that the property or interest therein be taken for another public use;

(2) that there is no feasible and prudent alternative for the proposed use for which the property or interest therein is to be taken; and

(3) that the proposal for taking includes all possible planning to minimize the harm done to ~~such~~ the property resulting from such proposed use. Where the court ~~deems~~ considers appropriate, a public hearing ~~shall~~ must be conducted prior to the court’s decision to allow comment and input thereto. No city, county, public district, agency of the State, or public utility of the State shall acquire any real property which is a part of the corpus of the Heritage Trust through condemnation for the purpose of utilizing ~~such~~ the property for another public use unless the acquiring entity pays or transfers to the Heritage Trust sufficient compensation to enable the operating entity to replace the real property and facilities thereon. The trustee of the trust shall have authority to utilize ~~such~~ the proceeds to acquire additional property for the trust and to maintain those properties which form the corpus of the trust.

7. The common law of South Carolina pertaining to trusts ~~shall~~ must be applicable to the Heritage Trust and to all areas or features, or interests therein, which become a part of this corpus. Without in any way limiting the generality of the foregoing, ~~such~~ the trusts shall not fail for want of a trustee, and the trust ~~shall~~ must be terminated as to any particular area or feature, or interest therein, only upon total failure of the intended purpose. Any substitution of the trustee or termination of the trust as to any particular area or feature, or interests therein, shall occur only after appropriate judicial action wherein the beneficiaries are adequately represented, and such total failure shall not in any way affect the remainder of the property within the corpus of the trust.

8. The trustee shall hold, manage, preserve and enforce the various areas and features, or interests therein, which become a part of the corpus of the trust in accordance with the terms of this chapter and in any respective conveyances and transfers thereto. To that end the trustees may adopt and modify ~~rules and~~ regulations for the use and enjoyment of ~~such~~ the trust properties by the public, and may employ or appoint agents to act on their behalf in the management of ~~such~~ the properties.”

SECTION 7. Section 51‑17‑130 of the 1976 Code, as last amended by Act 181 of 1993, is further amended to read:

“Section 51‑17‑130. 1. Enforcement officers of the Natural Resources Enforcement Division of the Department of Natural Resources, park rangers, and forestry rangers, as well as all other state and local law enforcement officials, shall have authority to enforce the provisions of this chapter.

2. The Attorney General shall enforce the ~~rules and~~ regulations of the ~~board of the~~ department both as they apply to those areas dedicated as well as those that are subsequently made a part of the corpus of the South Carolina Heritage Trust. In exercise of this authority, the Attorney General may, among other things and at the request of the ~~board of the~~ department, bring an action for injunctive or declaratory relief in any court of competent jurisdiction.

3.(a) Any person violating the provisions of this chapter where the damage to the property does not exceed five hundred dollars is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined not more than one hundred dollars or be imprisoned not more than thirty days for each offense.

(b) Any person violating the provisions of this chapter where the damage to the property exceeds five hundred dollars is guilty of a misdemeanor and, upon conviction, ~~shall~~ must be fined not less than five hundred dollars nor more than five thousand dollars or be imprisoned not more than six months, or both, for each offense.”

SECTION 8. Section 51‑18‑60(2)(a) of the 1976 Code, as added by Act 387 of 2000, is amended to read:

“(a) the ~~Chairman of the Board~~ Director of the Department of Natural Resources;”

SECTION 9. Section 1‑5‑40(A)(69)(a) of the 1976 Code is amended to read:

“(a) Natural Resources Advisory Board”

SECTION 10. Section 48‑45‑80 of the 1976 Code, as last amended by Act 273 of 2008, is further amended to read:

“Section 48‑45‑80. There is hereby created an advisory committee to the consortium director to consist of seven members who shall serve for terms of four years and until their successors are appointed and qualified. Four members must be appointed by the Governor. The four members appointed by the Governor must be residents of coastal counties, no more than one from each county, and two must be associated with the commercial fishing industry. The chairmen of the Senate Fish, Game and Forestry Committee~~,~~ and House Agriculture and Natural Resources Committee~~, and Department of Natural Resources Board~~ shall each appoint one member upon the recommendation of a majority of the members of their respective committees ~~and commission~~. The Director of the Department of Natural Resources shall serve as the seventh member. ~~The four members appointed by the Governor must be residents of coastal counties, no more than one from each county, and two must be associated with the commercial fishing industry.~~”

SECTION 11. Section 48‑59‑40(A)(1) of the 1976 Code is amended to read:

“(1) the ~~Chairman of the Board for~~ Director of the Department of Natural Resources, the chairman of the South Carolina Forestry Commission, and the Director of the South Carolina Department of Parks, Recreation and Tourism, all of whom shall serve ex officio and without voting privileges;”

SECTION 12. Section 49‑23‑20(n) of the 1976 Code is amended to read:

“(n) ‘~~Board’ means the governing authority of the Department of Natural Resources~~ Reserved. ”

SECTION 13. Section 49‑25‑40 of the 1976 Code is amended to read:

“Section 49‑25‑40. The state climatologist may certify copies as being authentic reproductions of weather records held in the State and shall present a report each year to the ~~board of the~~ Director of the Department of Natural Resources concerning the activities of the climatic program and other information which the ~~board~~ director may consider necessary.”

SECTION 14. Section 50‑1‑5 of the 1976 Code is amended to read:

“Section 50‑1‑5. For the purposes of Title 50, unless the context clearly indicates otherwise~~,~~:

(1) ~~‘Board’ means the governing body of the department.~~

~~(2)~~ ‘Department’ means the South Carolina Department of Natural Resources.

~~(3)~~(2) ‘Director’ means the administrative head of the department, appointed by the ~~board~~ Governor.

~~(4)~~(3) ‘Enforcement officer’ means an enforcement officer of the Natural Resources Enforcement Division of the department.”

SECTION 15. Section 50‑3‑10 of the 1976 Code is repealed.

SECTION 16. Section 50‑3‑180(A) of the 1976 Code is amended to read:

“(A) The Mitigation Trust Fund of South Carolina is credited for the purposes of receiving gifts, grants, contributions, and other proceeds for mitigation projects in the State. The ~~Board of Trustees for the Mitigation Trust Fund is the chairman and the members of the South Carolina Department of Natural Resources Board with~~ Director of the Department of Natural Resources has full authority over the administration of the funds deposited in the fund. The State Treasurer is the custodian of the fund and shall invest its assets in an interest‑bearing account pursuant to South Carolina law.”

SECTION 17. Section 50‑3‑720 of the 1976 Code is amended to read:

“Section 50‑3‑720. There is created the ~~Board of Trustees of the~~ Wildlife Endowment Fund of the Department of Natural Resources~~, with~~. The Director of the Department of Natural Resources has full authority over the administration of the fund~~, whose chairman and members are the chairman and members of the board of the Department of Natural Resources~~. The State Treasurer is the custodian of the fund and shall invest its assets in accordance with the provisions of Title 11.”

SECTION 18. Section 50‑3‑910 of the 1976 Code is amended to read:

“Section 50‑3‑910. There is created the ~~Board of Trustees of the~~ Jocassee Gorges Trust Fund of the Department of Natural Resources~~, with~~. The Director of the Department of Natural Resources has full authority over the administration of the fund~~, whose chairman and members are the chairman and members of the board of the Department of Natural Resources~~. The State Treasurer is the custodian of the fund and shall invest its assets in accordance with the provisions of Title 11.”

SECTION 19. Section 50‑3‑1120 of the 1976 Code is amended to read:

“Section 50‑3‑1120. The ~~board~~ Director of the Department of Natural Resources serves ex officio as the Conservation Grant Fund Board with full authority over the administration of the fund.”

SECTION 20. Section 50‑5‑1950 of the 1976 Code is amended to read:

“Section 50‑5‑1950. (A) A Saltwater Recreational Fisheries Advisory Committee is established to assist in prioritizing the expenditures of monies received in the special account. The committee is composed of:

(1) ~~one member of the Board of~~ the Director of the Department of Natural Resources to serve ex officio;

(2) two at‑large members appointed by the Governor; and

(3) one member from each of the following coastal counties appointed by a majority of the respective legislative delegations of Beaufort, Charleston, Colleton, Georgetown, Horry, Jasper, Dorchester, and Berkeley Counties.

(B) The members in subsection (A)(2) and (3) shall represent the saltwater recreational fishing community.

(C) Committee members ~~shall~~ must be paid the usual mileage, subsistence, and per diem as prescribed by law for members of state boards, commissions, and committees to be paid from revenues from the sale of stamps, licenses, prints, and related articles.

(D) The terms of members in subsection (A)(2) and (3) are for four years and are limited to two consecutive terms. Vacancies ~~shall~~ must be filled for the remainder of the unexpired term in the manner of original appointment.”

SECTION 21. Section 50‑11‑20 of the 1976 Code, as last amended by Act 214 of 2008, is further amended to read:

“Section 50‑11‑20. (A) As used in this article:

(1) ~~‘Board’ means the governing body of the South Carolina Department of Natural Resources.~~

~~(2)~~ ‘Committee’ means the Migratory Waterfowl Committee.

~~(3)~~(2) ‘Department’ means the South Carolina Department of Natural Resources.

~~(4)~~(3) ‘Migratory waterfowl’ means members of the family ‘Anatidae’, including brants, ducks, geese, and swans.

(B) There is created the Migratory Waterfowl Committee composed of nine members. A designee, who is not a paid employee, of Ducks Unlimited of South Carolina, a designee, who is not a paid employee, of the South Carolina Waterfowl Association, and the ~~Chairman of the Board~~ Director of the Department of Natural Resources, or his designee, shall serve ex officio. Two members are appointed by the chairman of the Agriculture and Natural Resources Committee of the House of Representatives, two are appointed by the chairman of the Fish, Game and Forestry Committee of the Senate, and two are appointed by the Governor, all of whom must be cognizant of waterfowl. The members of the committee shall serve for terms of three years and until successors are appointed and qualify. Vacancies are filled for the unexpired term in the manner of the original appointment. The members of the committee shall elect a chairman annually. Members of the committee are eligible to receive the per diem, subsistence, and mileage as is provided by law for members of boards, commissions, and committees.

(C) The committee is responsible for the creation of the annual migratory waterfowl stamp provided in Section 50‑9‑530, shall provide the design to the department, and shall recommend regulations to the department for the creation of migratory waterfowl stamp prints, their administration, sale, and distribution, and other matters relating to the stamps and their prints. If the committee sells any of the stamps, it shall purchase them from the department for five dollars ~~and~~ fifty cents a stamp, all of which is retained by the department. Funds derived from the sale of prints and related artwork must be expended as follows:

(1) The portion of the funds necessary to make up fifty percent of the total funds derived from the sale of the migratory waterfowl stamps and the migratory waterfowl stamp prints must be transferred by the committee to the department to be used for its specified projects.

(2) Except for the amount necessary for the committee to administer and promote the sale of any prints, stamps, or related articles, the remainder of the funds derived from the sale of the prints and related articles must be disbursed to an appropriate nonprofit organization as determined by the ~~board~~ Director of the Department of Natural Resources for the development of waterfowl propagation projects within Canada. The projects must specifically provide waterfowl for the Atlantic Flyway and must demonstrate evidence that the projects are acceptable to the appropriate governmental agencies having jurisdiction over the project areas.”

SECTION 22. Sections 49‑3‑20 and 49‑3‑30 of the 1976 Code are amended to read:

“Section 49‑3‑20. As used in this chapter~~:~~,

~~(1)~~ ~~‘Board’ means the governing body of the Department of Natural Resources.~~

~~(2)~~ ‘Department’ means the Department of Natural Resources.

Section 49‑3‑30. The former Water Resources Commission without its regulatory functions is hereby transferred to the Water Resources Division of the Department of Natural Resources and is directly accountable to and subject to the ~~board~~ Director of the Department of Natural Resources. The Water Resources Division ~~shall~~ must be ~~directly~~ accountable directly to and subject to the Department of Natural Resources. The regulatory functions of the former Water Resources Commission are transferred to the Department of Health and Environmental Control.”

SECTION 23. Section 13‑11‑20 of the 1976 Code, as last amended by Act 361 of 1994, is further amended to read:

“Section 13‑11‑20. Members of the board shall be appointed by the Governor as follows: two members upon nomination of the Director of the South Carolina Department of Parks, Recreation and Tourism; one member upon nomination of the Director of the Department of Natural Resources; two members upon nomination of the ~~Director of the Department~~ Secretary of Commerce or his designee; one member upon nomination of the Fairfield County Council; one member upon nomination of the Fairfield County Development Board; and one member appointed by the Governor, who shall be the chairman. In addition, the Director of the South Carolina Department of Parks, Recreation and Tourism, the ~~Director of the Department~~ Secretary of Commerce or his designee, the Executive Director of the State Housing Authority, the Executive Director of the Central Midlands Regional Planning Council, the Transportation Commissioner representing Fairfield County, the Mayor of the City of Winnsboro, ~~the member~~ any members of the House of Representatives ~~from District No. 41~~ and any Senators ~~from Senatorial District No. 7~~ who are residents of Fairfield County or who represent the county, and the Executive Director of the South Carolina Department of Archives and History shall serve as ex officio members of the board. Terms of office of the appointed members ~~shall~~ must be five years and until their successors are appointed and qualified. Vacancies ~~shall~~ must be filled in the manner of original appointment for the unexpired term.”

PART III

Time Effective

SECTION 1. This act takes effect July 1, 2011.

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