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COMMITTEE REPORT

April 23, 2015

**H. 3868**

Introduced by Reps. Pitts and White

S. Printed 4/23/15--H.

Read the first time March 18, 2015.

**THE COMMITTEE ON WAYS AND MEANS**

To whom was referred a Bill (H. 3868) 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, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting SECTION 2 in its entirety.

Amend the bill, further, as and if amended, by deleting SECTION 6 in its entirety.

Renumber sections to conform.

Amend title to conform.

W. BRIAN WHITE for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**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.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**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.

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

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

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

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

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

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

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

SECTION 2. Section 12‑24‑95 of the 1976 Code is amended to read:

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

SECTION 3. Section 48‑59‑60 of the 1976 Code is amended to read:

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

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

SECTION 4. Section 48‑59‑70(D) of the 1976 Code is amended to read:

“(D) For purposes of this chapter, conservation criteria include:

(1) the value of the proposal for the conservation of unique or important wildlife habitat;

(2) the value of the proposal for the conservation of any rare or endangered species;

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

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

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

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

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

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

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

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

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

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

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

SECTION 5. Section 48‑59‑70(L) of the 1976 Code is amended to read:

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

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

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

SECTION 6. Section 48‑59‑75 of the 1976 Code is amended to read:

“Section 48‑59‑75. In a fiscal year when the General Assembly in the annual general appropriations act provides less appropriations than what was provided for the previous year to at least one‑half of the state agencies or departments contained ~~therein~~ in the act ~~or in any year when the Budget and Control Board orders across the board cuts to state agencies and departments in the manner provided by law, no further transfer of deed recording fees or other appropriated funds, state or local, may be credited to the trust fund for the fiscal year or balance of the fiscal year~~, 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 appropriations to each agency or department, but existing balances in the trust fund may be used as provided by Chapter 59 ~~of~~, Title 48 ~~of the 1976 Code~~.”

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

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