**South Carolina General Assembly**

121st Session, 2015-2016

**H. 4945**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Bingham, McEachern, Parks, Johnson, Sottile, D.C. Moss, Horne, Spires, Felder, Knight, M.S. McLeod, Robinson‑Simpson, McKnight, Quinn, Whipper, Gilliard, Douglas, Huggins, Neal, Hodges, Cobb‑Hunter, Clyburn, King, Limehouse, Hiott, Brannon, J.E. Smith, Govan, Newton, Ridgeway, Mitchell, Erickson, Ballentine, Bannister, Southard, McCoy, Crosby, Alexander, Mack, Anthony, Henegan, Collins, Bamberg, Corley, Williams, Anderson, Bernstein, Bradley, G.A. Brown, R.L. Brown, Clary, Cole, Daning, Delleney, Dillard, Duckworth, Funderburk, Gagnon, Gambrell, George, Hart, Henderson, Hosey, Howard, Jefferson, Kennedy, Kirby, Long, W.J. McLeod, Merrill, V.S. Moss, Norrell, Pope, Rutherford, G.M. Smith, Stavrinakis, Tallon, Wells, Whitmire and Willis

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Companion/Similar bill(s): 519, 3868

Introduced in the House on February 11, 2016

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

Summary: Conservation Bank Reauthorization and Wetlands Conservation Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/11/2016 House Introduced and read first time ([House Journal‑page 95](file:///h:\HJ%20Archive\2016\02-11-16.docx))

2/11/2016 House Referred to Committee on **Ways and Means** ([House Journal‑page 95](file:///h:\HJ%20Archive\2016\02-11-16.docx))

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**VERSIONS OF THIS BILL**

[2/11/2016](file:///p:\pprever\2015-16\4945_20160211.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “CONSERVATION BANK REAUTHORIZATION AND WETLANDS CONSERVATION ACT”; TO AMEND SECTION 12‑24‑95, RELATING TO THE STATE DEED RECORDING FEE, SO AS TO INCREASE THE PORTION OF THE STATE DEED RECORDING FEE CREDITED TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND FROM TWENTY‑FIVE CENTS TO THIRTY CENTS; TO AMEND SECTION 48‑59‑70, RELATING TO THE SOUTH CAROLINA CONSERVATION BANK TRUST FUND GRANTS, SO AS TO ADD ISOLATED WETLANDS, CAROLINA BAYS AND THE VALUE OF THE PROPOSAL FOR THE ACQUISITION, RECLAMATION, OR IMPROVEMENT OF WETLANDS TO THE LIST OF CONSERVATION CRITERIA OF THE CONSERVATION BANK AND TO ALLOW THE BOARD OF THE CONSERVATION BANK TO AUTHORIZE UP TO EIGHT AND THIRTY‑THREE ONE HUNDREDTHS PERCENT OF THE MONIES CREDITED TO THE BANK TO BE APPLIED TO APPLICATIONS THAT PRIMARILY OR SOLELY RELATE TO THE ACQUISITION, RECLAMATION, OR IMPROVEMENT OF WETLANDS; TO AMEND SECTION 48‑59‑75, RELATING TO RESTRICTIONS ON THE TRANSFER OF DEED RECORDING FEES TO THE TRUST FUND, SO AS TO PROVIDE THAT THE TRANSFER OF DEED RECORDING FEES SHALL BE DECREASED BY TWICE THE AVERAGE PERCENTAGE REDUCTION OF APPROPRIATIONS TO EACH AGENCY IN A FISCAL YEAR WHEN THE GENERAL ASSEMBLY PROVIDES LESS APPROPRIATIONS THAN WHAT WAS PROVIDED IN THE PREVIOUS YEAR; AND TO REPEAL SECTIONS 3, 5, AND 7 OF ACT 200 OF 2002 RELATING TO DEED RECORDING FEES AND SUNSET PROVISIONS.

Whereas, the Isolated Wetlands and Carolina Bays Task Force (task force) was established pursuant to Act 198 of 2012. The goals of the task force were to review, study, and make recommendations concerning issues related to isolated wetlands and Carolina Bays in South Carolina. The thirteen member task force issued its report and recommendation on August 27, 2013; and

Whereas, according to the task force, South Carolina has lost an estimated twenty‑eight percent of its original isolated wetlands, yet still has approximately four hundred thousand acres of existing isolated wetlands, a quarter of which are located outside of coastal counties; and

Whereas, in Rapanos v. United States, 547 U.S.C. 715 (2006), 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 federal regulatory purposes, “isolated wetlands” are a subset of wetlands that have no chemical, physical, or biological connection to waters of the United States or interstate or foreign commerce. Thus, they are without a “significant nexus” by definition; and

Whereas, in light of Rapanos, it is important that South Carolina take measures to conserve isolated wetlands, including Carolina Bays, in a prudent and cost efficient manner that is respectful of property rights; and

Whereas, the task force did not recommend that the State add a new permitting program for isolated wetlands and Carolina Bays but instead recommended a voluntary, incentive‑based approach using the South Carolina Conservation Bank as the best way to preserve those bodies of water; and

Whereas, the provisions in this act reflect the task force’s recommendations: (1) to increase the amount of the existing deed recording fee designated for the Conservation Bank by five cents; (2) to include the presence of isolated wetlands and Carolina Bays in the conservation criteria used to award Conservation Bank grants or loans; and (3) to remove the sunset provision included in the Conservation Bank’s enacting legislation; and

Whereas, wetlands on Wildlife Management Areas accessible to the public for hunting and other outdoor activities, including isolated wetlands and Carolina Bays, are an important component of wetlands conservation; and

Whereas, this act reauthorizes the Conservation Bank, stabilizes and increases the amount of existing deed recording fees designated for the Conservation Bank, and adds isolated wetlands, Carolina Bays and the acquisition, reclamation or improvement of Wildlife Management Area wetlands to its conservation criteria. Now, therefore,

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

SECTION 1. This act shall be called the “Conservation Bank Reauthorization and 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~~ 2016, ~~twenty‑five~~ 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 48‑59‑70(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 4. Section 48‑59‑70(L) of the 1976 Code is amended by adding:

“(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, 2016, 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 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 concurrence of the Department of Natural Resources.”

SECTION 5. 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 ~~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 to the South Carolina Conservation Bank Trust Fund shall 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 6. Sections 3, 5, and 7 of Act 200 of 2002 are repealed.

SECTION 7. This act takes effect upon approval of the Governor, except that SECTION 4 takes effect July 1, 2016.

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