

North Carolina General Statutes

ARTICLE 13A. *Clean Water Management Trust Fund.*

113-145.1. **Purpose.**

The General Assembly recognizes that a critical need exists in this State to clean up pollution in the State's surface waters and to protect and conserve those waters that are not yet polluted. The task of cleaning up polluted waters and protecting the State's water resources is multifaceted and requires different approaches that take into account the problems, the type of pollution, the geographical area, and the recognition that the hydrological and ecological values of each resource sought to be upgraded, conserved, and protected are unique.

It is the intent of the General Assembly that moneys from the Fund created under this Article shall be used to help finance projects that specifically address water pollution problems and focus on upgrading surface waters, eliminating pollution, and protecting and conserving unpolluted surface waters, including urban drinking water supplies. It is the further intent of the General Assembly that moneys from the Fund also be used to build a network of riparian buffers and greenways for environmental, educational, and recreational benefits. While the purpose of this Article is to focus on the cleanup and prevention of pollution of the State's surface waters and the establishment of a network of riparian buffers and greenways, the General Assembly believes that the results of these efforts will also be beneficial to wildlife and marine fisheries habitats.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a).)

113-145.2. **Definitions.**

As used in this Article:

(1) Council. - The advisory council for the Clean Water Management Trust Fund.

(2) Economically Distressed Units of Local Government. - Counties designated as economically distressed by the Secretary of Commerce under G.S. 143B-437A and any cities located in those counties.

(3) Fund. - The Clean Water Management Trust Fund created pursuant to this Article.

(4) Land - Real property and any interest in, easement in, or restriction on real property.

(5) Trustees. - The trustees of the Clean Water Management Trust Fund.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a).)

113-145.3. Clean Water Management Trust Fund: established.

(a) Fund Established. - There is established a Clean Water Management Trust Fund in the State Treasurer's Office that shall be used to finance projects to clean up or prevent surface water pollution in accordance with this Article.

(b) Fund Earnings, Assets, and Balances. - The State Treasurer shall hold the Fund separate and apart from all other moneys, funds, and accounts. Investment earnings credited to the assets of the Fund shall become part of the Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the next succeeding fiscal year. Payments from the Fund shall be made on the warrant of the Chair of the Board of Trustees.

(c) Fund Purposes. - Moneys from the Fund may be used for any of the following purposes:

(1) To acquire land for riparian buffers for the purposes of providing environmental protection for surface waters and urban drinking water supplies and establishing a network of riparian greenways for environmental, educational, and recreational uses.

(2) To acquire conservation easements or other interests in real property for the purpose of protecting and conserving surface waters and urban drinking water supplies.

(3) To coordinate with other public programs involved with lands adjoining water bodies to gain the most public benefit while protecting and improving water quality.

(4) To restore previously degraded lands to reestablish their ability to protect water quality.

(5) To repair failing waste treatment systems if: (i) an application has first been submitted to receive a loan or grant from the Clean Water Revolving Loan and Grant Fund and the application was denied during the latest review cycle; (ii) the repair is a reasonable remedy for resolving an existing waste treatment problem; and (iii) the repair is not for the purpose of expanding the system to accommodate future anticipated growth of a community. Priority shall be given to economically distressed units of local government.

(6) To repair and eliminate failing septic tank systems, to eliminate illegal drainage connections, and to expand waste treatment systems if the system is being expanded as a remedy to eliminate failing septic tank systems or illegal drainage connections. Priority shall be given to economically distressed units of local government.

(7) To improve stormwater controls and management practices.

(8) To facilitate planning that targets reductions in surface water pollution.

(9) To fund operating expenses of the Board of Trustees and its staff.

(d) Limit on Operating and Administrative Expenses. - No more than two percent (2%) of the annual balance of the Fund on July 1 or a total sum of eight hundred fifty thousand dollars (\$850,000) whichever is less, may be used each fiscal year for administrative and operating expenses of the Board of Trustees and its staff.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a).)

113-145.4. Clean Water Management Trust Fund: eligibility for grants; matching funds or property requirement.

(a) Eligible Grant Applicants. - Any of the following are eligible to apply for a grant from the Fund for the purpose of protecting and enhancing water quality:

(1) A State agency.

(2) A local government or other political subdivision of the State or a combination of such entities.

(3) A nonprofit corporation whose primary purpose is the conservation, preservation, and restoration of our State's environmental and natural resources.

(b) Grant Matching Requirement. - The Board of Trustees shall establish matching requirements for grants awarded under this Article. The Board of Trustees may require a match of up to twenty percent (20%) of the amount of the grant awarded. This requirement may be satisfied by the donation of land to a public or private nonprofit conservation organization as approved by the Board of Trustees. The Board of Trustees may also waive the requirement to match a grant pursuant to guidelines adopted by the Board of Trustees.

(c) Grants Not Available to Satisfy Compensatory Mitigation Requirements. - No grant shall be awarded under this article to satisfy compensatory mitigation requirements under 33 U.S.C. § 1344 or G.S. 143-214.11.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a).)

113-145.5. Clean Water Management Trust Fund: Board of Trustees established; membership qualifications; vacancies; meetings and meeting facilities.

(a) Board of Trustees Established. - There is established the Clean Water Management Trust Fund Board of Trustees. The Clean Water Management Trust Fund Board of Trustees shall be independent, but for administrative purposes shall be located under the Department of Environment and Natural Resources.

(b) Membership. - The Clean Water Management Trust Fund Board of Trustees shall be composed of 18 members. Six members shall be appointed by the Governor, six by the General Assembly upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121, and six by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. The office of Trustee is declared to be an office that may be held concurrently with any other executive or appointive office, under the authority of Article VI, Section 9, of the North Carolina Constitution.

Persons appointed shall be knowledgeable in one of the following areas:

- (1) Acquisition and management of natural areas.
- (2) Conservation and restoration of water quality.
- (3) Wildlife and fisheries habitats and resources.
- (4) Environmental management.

(c) Initial Appointments. - Each appointing officer shall designate two of the officer's initial appointments to serve two-year terms, two to serve four-year terms, and two to serve six-year terms. Thereafter, all appointments shall be for four years, subject to reappointment. All initial appointments shall be made on or before January 1, 1997. The Governor shall appoint one Trustee to serve as Chair of the Board.

(d) Vacancies. - If a vacancy occurs, other than by the expiration of term, of a member subject to appointment by the General Assembly upon the recommendation of the Speaker of the House of Representatives or the President Pro Tempore of the Senate, the vacancy shall be filled in accordance with G.S. 120-122. All other vacancies shall be filled by the appointing official in the original manner.

(e) Frequency of Meetings. - The Trustees shall meet at least twice each year and may hold special meetings at the call of the Chair or a majority of the members.

(f) Per Diem and Expenses. - The Trustees shall receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. Per diem, subsistence, and travel expenses of the Trustees shall be paid from the Fund.

(g) Meeting Facilities. - The Secretary of the Department of Environment and Natural Resources shall provide meeting facilities for the Board of Trustees and its staff as requested by the Chair.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a).)

**113-145.6. Clean Water Management Trust Fund Board of Trustees:
powers and duties.**

(a) Allocate Grant Funds. - The Trustees shall allocate moneys from the Fund as grants. A grant may be awarded only for a project or activity that satisfies the criteria and furthers the purposes of this Article.

(b) Develop Grant Criteria. - The Trustees shall develop criteria for awarding grants under this Article. The criteria developed shall include consideration of the following:

(1) The significant enhancement and conservation of water quality in the State.

(2) The objectives of the basinwide management plans for the State's river basins and watersheds.

(3) The promotion of regional integrated ecological networks insofar as they affect water quality.

(4) The specific areas targeted as being environmentally sensitive.

(5) The geographic distribution of funds as appropriate.

(6) The preservation of water resources with significant recreational or economic value and uses.

(7) The development of a network of riparian buffer-greenways bordering and connecting the State's waterways that will serve environmental, educational, and recreational uses.

(c) Develop Additional Guidelines. - The Trustees may develop guidelines in addition to the grant criteria consistent with and as necessary to implement this Article.

(d) Acquisition of Land. - The Trustees may acquire land by purchase, negotiation, gift, or devise. Any acquisition of land by the Trustees must be reviewed and approved by the Council of State and the deed for the land subject to approval of the Attorney General before the acquisition can become effective. In determining whether to acquire land as permitted by this Article, the Trustees shall consider whether the acquisition furthers the purposes of this Article and may also consider recommendations from the Council. Nothing in this section shall allow the Trustees to acquire land under the right of eminent domain.

(e) Exchange of Land. - The Trustees may exchange any land they acquire in carrying out the powers conferred on the Trustees by this Article.

(f) Land Management. - The Trustees may designate managers or managing agencies of the lands acquired under this Article.

(g) Tax Credit Certification. - The Trustees shall develop guidelines to determine whether land donated for a tax credit

under G.S. 105-130.34 or G.S. 105-151.12 are suitable for one of the purposes under this Article and may be certified for a tax credit.

(h) Rule-making Authority. - The Trustees may adopt rules to implement this Article. Chapter 150B of the General Statutes applies to the adoption of rules by the Trustees.

(i) The Chair of the Board of Trustees of the Clean Water Management Trust Fund shall report to the Environmental Review Commission beginning November 1, 1996, and annually thereafter on implementation of this section. A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly beginning November 1, 1996, and annually thereafter on implementation of this section.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a), (c).)

113-145.6A. Clear Water Management Trust Fund: reporting requirement.

(a) The Chair of the Trustee shall report each year by November 1 to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees regarding the implementation of this Article. A written copy of the report shall also be sent to the Fiscal Research Division of the General Assembly by November 1 each year.

(b) No later than November 1, 1997, and quarterly thereafter, the Chair of the Trustees shall submit to the Joint Legislative Commission on Governmental Operations, the Environmental Review Commission and the Subcommittees on Natural and Economic Resources of the House of Representatives and Senate Appropriations Committees a list of the projects awarded grants from the Fund that quarter. The list shall include for each project a description of the project, the amount of the grant awarded for the project, and the total cost of the project. A written copy of the list and other information regarding the projects shall also be sent to the Fiscal Research Division of the General Assembly by November 1, 1997, and for each subsequent quarter.

(1997-443, s. 7.10.)

113-145.7. Clean Water Management Trust Fund: Executive Director and staff.

The Clean Water Management Trust Fund Board of Trustees, as soon as practicable after its organization, shall select and appoint a competent person in accordance with this section as Executive Director of the Clean Water Management Trust Fund Board of Trustees. The Executive Director shall be charged with the supervision of all activities under the jurisdiction of the Trustees and shall serve as the chief administrative officer of

the Trustees. Subject to the approval of the Trustees and the Director of the Budget, the Executive Director may employ such clerical and other assistants as may be deemed necessary.

The person selected as Executive Director shall have had training and experience in conservation, protection, and management of surface water resources. The salary of the Executive Director shall be fixed by the Trustees, and the Executive Director shall be allowed travel and subsistence expenses in accordance with G.S. 138-6. The Executive Director's salary and expenses shall be paid from the Fund. The term of office of the Executive Director shall be at the pleasure of the Trustees.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a).)

113-145.8. Clean Water Management Trust Fund: Advisory Council.

There is established the Clean Water Management Trust Fund Advisory Council. The Council shall advise the Trustees with regard to allocations made from the Fund, and other issues as requested by the Trustees. The Council shall be composed of the following or its designees:

- (1) Commissioner of Agriculture.
- (2) Chair of the Wildlife Resources Commission.
- (3) Secretary of the Department of Environment and Natural Resources.
- (4) Secretary of the Department of Commerce.

(1996, 2nd Ex. Sess., c. 18, s. 27.6(a); 1997-443, s. 11A.119(a).)

113-145.9 through 113-150. [These sections have been reserved.]

These sections have been reserved for future codification purposes.