

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 1085\*

Short Title: Wetlands Reimburse/Local Tax Base.

(Public)

Sponsors: Senators Albertson; and Metcalf.

Referred to: Finance.

April 15, 1999

A BILL TO BE ENTITLED

AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES THAT ACQUIRE LAND FOR WETLANDS MITIGATION TO REIMBURSE THE COUNTY IN WHICH THE LAND IS LOCATED FOR ITS LOST TAXES DUE TO THE ACQUISITION.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-15.1. **Consent of board of commissioners or agreement to make payment in lieu of future ad valorem property taxes required before wetlands acquisition by a unit of local government.**

(a) Condemnation. – Notwithstanding the provisions of G.S. 153A-15, Chapter 40A of the General Statutes, or any other general law or local act conferring the power of eminent domain, before final judgment may be entered in any action of condemnation initiated (or in the case of Article 11 of Chapter 160A, before a final condemnation resolution is adopted) by a unit of local government whose property is exempt from tax under Section 2(3) of Article V of the North Carolina Constitution, whereby the condemnor seeks to acquire land for the purpose of wetlands mitigation, the condemnor shall agree in writing to pay to the county where the land is located a sum equal to the

1 estimated amount of ad valorem property taxes that would have accrued to the county for  
2 the next 10 years had the land not been acquired by the condemnor.

3 (b) Purchase. – Notwithstanding the provisions of G.S. 130A-55, 153A-15, 153A-  
4 158, 160A-240.1, or any other general law or local act conferring the power to acquire  
5 real property, before any unit of local government whose property is exempt from tax  
6 under Section 2(3) of Article V of the North Carolina Constitution purchases any land for  
7 the purpose of wetlands mitigation, the unit shall either agree in writing to pay to the  
8 county where the land is located a sum equal to the estimated amount of ad valorem taxes  
9 that would have accrued to the county for the next 10 years had the land not been  
10 acquired by the acquiring unit.

11 (c) This section does not apply to any condemnation or acquisition of real property  
12 or an interest in real property by a city if the property to be condemned or acquired is  
13 within the corporate limits of that city."

14 Section 2. G.S. 143-214.11(e) reads as rewritten:

15 "(e) Payment Schedule. – A standardized schedule of per-acre payment amounts  
16 shall be established by the Environmental Management Commission. The monetary  
17 payment shall be based on the ecological functions and values of wetlands permitted to  
18 be lost and on the cost of restoring or creating wetlands capable of performing the same  
19 or similar functions, including directly related costs of wetlands restoration planning,  
20 long-term monitoring, and maintenance of restored areas. If a State agency is acquiring  
21 property to restore or create wetlands, then the monetary payment shall also include a  
22 sum equal to the estimated amount of ad valorem taxes that would have accrued to the  
23 county in which the property is located for the next 10 years had the land not been  
24 acquired by the acquiring agency unless there is an agreement between the county and  
25 State waiving the payment."

26 Section 3. G.S. 143-214.12(a) reads as rewritten:

27 "(a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established as  
28 a nonreverting fund within the Department. The Fund shall be treated as a special trust  
29 fund and shall be credited with interest by the State Treasurer pursuant to G.S. 147-69.2  
30 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository for  
31 monetary contributions and donations or dedications of interests in real property to  
32 promote projects for the restoration, enhancement, preservation, or creation of wetlands  
33 and riparian areas and for payments made in lieu of compensatory mitigation as described  
34 in subsection (b) of this section. No funds shall be expended from this Fund for any  
35 purpose other than those directly contributing to the acquisition, including payment to a  
36 county of a sum in lieu of ad valorem taxes lost by the county as a result of the purchase  
37 of the property and its complete exclusion from property taxes, perpetual maintenance,  
38 enhancement, restoration, or creation of wetlands and riparian areas in accordance with  
39 the basinwide plan as described in G.S. 143-214.10."

40 Section 4. Article 6 of Chapter 146 of the General Statutes is amended by  
41 adding a new section to read:

42 "**§ 146-22.3. Acquisition of property to be used to create or restore wetlands.**

1        (a) A State agency that acquires land by purchase for the purpose of creating or  
2 restoring wetlands as provided by G.S. 143-214.8 through G.S. 143-214.13 shall pay to  
3 the county in which the land is located, as reimbursement, a sum equal to the estimated  
4 amount of ad valorem taxes that would have accrued to the county for the next 10 years  
5 had the land not been acquired by the State. The county may waive this payment if the  
6 State identifies another State-mandated project toward which the wetlands property can  
7 be credited.

8        (b) The estimated amount of ad valorem taxes that would have accrued for the  
9 next 10 years is the product of the total appraised value of property excluded from the  
10 county's tax base multiplied by the tax rate to which the property is subject at the time of  
11 purchase, multiplied by 10.

12        (c) The funds for payments made under this section shall be drawn from the  
13 Wetlands Restoration Fund as provided in G.S. 143-214.12."

14                Section 5. This act is effective when it becomes law, and applies to transfers  
15 made on or after that date.