

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

S

3

**SENATE BILL 1064
Finance Committee Substitute Adopted 6/8/04
Appropriations/Base Budget Committee Substitute Adopted 6/9/04**

Short Title: Finance Parks, Heritage, and Clean Water.

(Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE THE ISSUANCE OF SPECIAL INDEBTEDNESS FOR
2 CAPITAL IMPROVEMENTS AND LAND ACQUISITION FOR PARKS,
3 RECREATION, THE PRESERVATION OF NATURAL HERITAGE, AND
4 CLEAN WATER CONSERVATION, TO USE FUNDS CURRENTLY
5 DEDICATED TO THESE PURPOSES TO REPAY THE INDEBTEDNESS, AND
6 TO REQUIRE THE NORTH CAROLINA PARKS AND RECREATION
7 AUTHORITY TO ALLOCATE FUNDS GEOGRAPHICALLY ACROSS THE
8 STATE; AND TO MAKE CLARIFYING CHANGES.
9

10 The General Assembly of North Carolina enacts:

11 **PART 1. PARKS RENOVATION AND ACQUISITION**

12 **SECTION 1.1.** Authorization. – In accordance with G.S. 142-83, this part
13 authorizes the issuance or incurrence of special indebtedness in the maximum principal
14 amount provided in this part to be used to finance the cost of parks projects. As used in
15 this part, the term "parks projects" means capital projects for the State Parks System,
16 repairs and renovations of park facilities, and land acquisition for the State Parks
17 System, pursuant to G.S. 113-44.15(b)(1). Special indebtedness authorized by this
18 section shall be issued or incurred only in accordance with Article 9 of Chapter 142 of
19 the General Statutes.

20 **SECTION 1.2.** Identification of Parks Projects. – The specific parks projects
21 for which the special indebtedness may be used are to be identified by the North
22 Carolina Parks and Recreation Authority as provided in G.S. 113-44.15.

23 **SECTION 1.3.** Maximum Amount. – The maximum principal amount of
24 special indebtedness that may be issued pursuant to this part is the lesser of one hundred
25 five million dollars (\$105,000,000) or the maximum amount for which the aggregate
26 annual principal and interest payments to be made in any year on the special
27 indebtedness will not exceed the annual amount identified in G.S. 113-44.15. If the
28 annual amount is increased, the maximum principal amount increases accordingly, but

1 not above one hundred five million dollars (\$105,000,000). The amount of special
2 indebtedness to be issued at any time is determined in accordance with Article 9 of
3 Chapter 142 of the General Statutes.

4 **SECTION 1.4.** G.S. 113-44.15 reads as rewritten:

5 **"§ 113-44.15. Parks and Recreation Trust Fund.**

6 (a) Fund Created. – There is established a Parks and Recreation Trust Fund in the
7 State Treasurer's Office. The Trust Fund shall be a nonreverting special revenue fund
8 consisting of gifts and grants to the Trust Fund, monies credited to the Trust Fund
9 pursuant to G.S. 105-228.30(b), and other monies appropriated to the Trust Fund by the
10 General Assembly.

11 (b) Use. – Funds in the Trust Fund are annually appropriated to the North
12 Carolina Parks and Recreation Authority and, unless otherwise specified by the General
13 Assembly or the terms or conditions of a gift or grant, shall be allocated and used as
14 follows:

15 (1) Sixty-five percent (65%) for the State Parks System for capital
16 projects, repairs and renovations of park facilities, and land
17 ~~acquisition-acquisition~~, and to retire debt incurred for these purposes
18 under Article 9 of Chapter 142 of the General Statutes.

19 (2) Thirty percent (30%) to provide matching funds to local governmental
20 units or public authorities as defined in G.S. 159-7 on a
21 dollar-for-dollar basis for local park and recreation purposes. The
22 appraised value of land that is donated to a local government unit or
23 public authority may be applied to the matching requirement of this
24 subdivision. These funds shall be allocated by the North Carolina
25 Parks and Recreation Authority based on criteria patterned after the
26 Open Project Selection Process established for the Land and Water
27 Conservation Fund administered by the National Park Service of the
28 United States Department of the Interior.

29 (3) Five percent (5%) for the Coastal and Estuarine Water Beach Access
30 Program.

31 (b1) Geographic Distribution. – In allocating funds in the Trust Fund under this
32 subsection, the North Carolina Parks and Recreation Authority shall ~~consider~~ make
33 geographic distribution across the State to the extent practicable.

34 (b2) Administrative Expenses. – Of the funds appropriated to the North Carolina
35 Parks and Recreation Authority from the Trust Fund each year, no more than three
36 percent (3%) may be used by the Department for operating expenses associated with
37 managing capital improvements projects, acquiring land, and administration of local
38 grants programs.

39 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no
40 later than October 1 of each year to the Joint Legislative Commission on Governmental
41 Operations, the House and Senate Appropriations Subcommittees on Natural and
42 Economic Resources, the Fiscal Research Division, and the Environmental Review
43 Commission on allocations from the Trust Fund from the prior fiscal year. The
44 Authority also shall provide a progress report no later than March 15 of each year to the

1 same recipients on the activities of and the expenditures from the Trust Fund for the
2 current fiscal year.

3 (d) Debt. – The Authority may allocate up to fifty percent (50%) of the portion of
4 the annual appropriation identified in subdivision (b)(1) of this section to reimburse the
5 General Fund for debt service on special indebtedness to be issued or incurred under
6 Article 9 of Chapter 142 of the General Statutes for the purposes provided in
7 subdivision (b)(1) of this section. In order to allocate funds for debt service
8 reimbursement, the Authority must identify to the State Treasurer the specific parks
9 projects for which it would like special indebtedness to be issued or incurred and the
10 annual amount it intends to make available, and request the State Treasurer to issue or
11 incur the indebtedness. After special indebtedness has been issued or incurred for a
12 parks project requested by the Authority, the Authority must credit to the General Fund
13 each year the actual aggregate principal and interest payments to be made in that year
14 on the special indebtedness, as identified by the State Treasurer."

15 **PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL** 16 **HERITAGE**

17 **SECTION 2.1.** Authorization. – In accordance with G.S. 142-83, this part
18 authorizes the issuance or incurrence of special indebtedness in the maximum principal
19 amount provided in this part to be used to finance the cost of natural heritage projects.
20 As used in this part, the term "natural heritage projects" means acquiring land for parks,
21 recreation, and the preservation of natural heritage, pursuant to G.S. 113-77.9(b)(1) and
22 (2). Special indebtedness authorized by this section shall be issued or incurred only in
23 accordance with Article 9 of Chapter 142 of the General Statutes.

24 **SECTION 2.2.** Identification of Natural Heritage Projects. – The specific
25 natural heritage projects for which the special indebtedness may be used are to be
26 identified by the Trustees of the Natural Heritage Trust Fund as provided in
27 G.S. 113-77.9.

28 **SECTION 2.3.** Maximum Amount. – The maximum principal amount of
29 special indebtedness that may be issued pursuant to this part is the lesser of sixty-five
30 million dollars (\$65,000,000) or the maximum amount for which the aggregate annual
31 principal and interest payments to be made in any year on the special indebtedness will
32 not exceed the annual amount identified in G.S. 113-77.9. If the annual amount is
33 increased, the maximum principal amount increases accordingly, but not above
34 sixty-five million dollars (\$65,000,000). The amount of special indebtedness to be
35 issued at any time is determined in accordance with Article 9 of Chapter 142 of the
36 General Statutes.

37 **SECTION 2.4.** G.S. 113-77.9 reads as rewritten:

38 **"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust** 39 **Fund.**

40 (a) Proposals. – From time to time, but at least once each year, the Secretary, the
41 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of
42 Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands
43 to be acquired with funds from the Fund. For each tract or interest proposed, the
44 Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the

1 Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the
2 Trustees with the following information:

- 3 (1) The value of the land for recreation, forestry, fish and wildlife habitat,
4 and wilderness purposes, and its consistency with the plan developed
5 pursuant to the State Parks Act, the State's comprehensive plan for
6 outdoor recreation, parks, natural areas development, and wildlife
7 management goals and objectives.
- 8 (2) Any rare or endangered species on or near the land.
- 9 (3) Whether the land contains a relatively undisturbed and outstanding
10 example of a native North Carolina ecological community that is now
11 uncommon.
- 12 (4) Whether the land contains a major river or tributary, watershed,
13 wetland, significant littoral, estuarine, or aquatic site, or important
14 geologic feature.
- 15 (5) The extent to which the land represents a type of landscape, natural
16 feature, or natural area that is not currently in the State's inventory of
17 parks and natural areas.
- 18 (6) Other sources of funds that may be available to assist in acquiring the
19 land.
- 20 (7) The State department or division that will be responsible for managing
21 the land.
- 22 (8) What assurances exist that the land will not be used for purposes other
23 than those for which it is being acquired.
- 24 (9) Whether the site or structure is of such historical significance as to be
25 essential to the development of a balanced State program of historic
26 properties.

27 (b) Land Acquisition and Debt Service. – The Trustees may authorize
28 expenditures from the Fund ~~to acquire:~~for the following purposes:

- 29 (1) To acquire land ~~land~~ that represents the ecological diversity of North
30 Carolina, including natural features such as riverine, montane, coastal,
31 and geologic systems and other natural areas to ensure their
32 preservation and conservation for recreational, scientific, educational,
33 cultural, and aesthetic ~~purposes.~~ purposes, and to retire debt incurred
34 for this purpose under Article 9 of Chapter 142 of the General Statutes.
- 35 (2) To acquire land ~~land~~ as additions to the system of parks, State trails,
36 aesthetic forests, fish and wildlife management areas, wild and scenic
37 ivers, and natural areas for the beneficial use and enjoyment of the
38 ~~public.~~ public, and to retire debt incurred for this purpose under Article
39 9 of Chapter 142 of the General Statutes.
- 40 (3) Subject to the limitations of subsection (b2) of this section, to acquire
41 land that contributes to the development of a balanced State program
42 of historic properties.

43 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land
44 pursuant to this Article, the first priority shall be the protection of land with outstanding

1 natural or cultural heritage values. Land with outstanding natural heritage values is land
2 that is identified by the North Carolina Natural Heritage Program as having State or
3 national significance. Land with outstanding cultural heritage values is land that is
4 identified, inventoried, or evaluated by the Department of Cultural Resources. The
5 Trustees shall be guided by any priorities established by the Secretary, the Chairman of
6 the Wildlife Resources Commission, the Commissioner of Agriculture, and the
7 Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of
8 this section.

9 (b2) Historic Properties. – The Trustees may authorize expenditure of up to
10 twenty-five percent (25%) of the funds credited to the Fund pursuant to G.S. 105-228.30
11 during the preceding fiscal year to acquire land under subdivision (3) of subsection (b)
12 of this section. No other funds in the Fund may be used for expenditures to acquire land
13 under subdivision (3) of subsection (b) of this section.

14 (b3) Debt. – Of the funds credited annually to the Fund pursuant to
15 G.S. 105-228.30, the Trustees may authorize expenditure of up to fifty percent (50%) to
16 reimburse the General Fund for debt service on special indebtedness to be issued or
17 incurred under Article 9 of Chapter 142 of the General Statutes for the purposes
18 provided in subdivisions (b)(1) and (2) of this section. In order to authorize expenditure
19 of funds for debt service reimbursement, the Trustees must identify to the State
20 Treasurer and the Department of Administration the specific natural heritage projects
21 for which they would like special indebtedness to be issued or incurred and the annual
22 amount they intend to make available, and request the State Treasurer to issue or incur
23 the indebtedness. After special indebtedness has been issued or incurred for a natural
24 heritage project requested by the Trustees, the Trustees must direct the State Treasurer
25 to credit to the General Fund each year the actual aggregate principal and interest
26 payments to be made in that year on the special indebtedness, as identified by the State
27 Treasurer.

28 (c) Other Purposes. – The Trustees may authorize expenditures from the Fund to
29 pay for the inventory of natural areas conducted under the Natural Heritage Program
30 established pursuant to the Nature Preserves Act, Article 9A of Chapter 113A of the
31 General Statutes. The Trustees may also authorize expenditures from the Fund to pay
32 for conservation and protection planning and for informational programs for owners of
33 natural areas, as defined in G.S. 113A-164.3.

34 (d) Acquisition. – The Department of Administration may, pursuant to
35 G.S. 143-341, acquire by purchase, gift, or devise all lands selected by the Trustees for
36 acquisition pursuant to this Article. Title to any land acquired pursuant to this Article
37 shall be vested in the State. A State agency with management responsibility for land
38 acquired pursuant to this Article may enter into a management agreement or lease with a
39 county, city, town, or private nonprofit organization qualified under G.S. 105-151.12
40 and G.S. 105-130.34 and certified under section 501(c)(3) of the Internal Revenue Code
41 to aid in managing the land. A management agreement or lease shall be executed by the
42 Department of Administration pursuant to G.S. 143-341.

43 (d1) Local Reimbursement. – In any county in which real property was purchased
44 pursuant to subsection (d) of this section as additions to the fish and wildlife

1 management areas and where less than twenty-five percent (25%) of the land area is
2 privately owned at the time of purchase, that county and any other local taxing unit shall
3 be annually reimbursed, for a period of 20 years, from funds available to the North
4 Carolina Wildlife Resources Commission in an amount equal to the amount of ad
5 valorem taxes that would have been paid to the taxing unit if the property had remained
6 subject to taxation.

7 (e) Reports. – The Secretary shall maintain and revise twice each year a list of
8 acquisitions made pursuant to this Article. The list shall include the acreage of each
9 tract, the county in which the tract is located, the amount paid from the Fund to acquire
10 the tract, and the State department or division responsible for managing the tract. The
11 Secretary shall furnish a copy of the list to each Trustee, the Joint Legislative
12 Commission on Governmental Operations, the House and Senate Appropriations
13 Subcommittees on Natural and Economic Resources, the Fiscal Research Division, and
14 the Environmental Review Commission within 30 days after each revision.

15 (f) Hunting and Fishing. – No provision of this Article shall be construed to
16 eliminate hunting and fishing, as regulated by the laws of the State of North Carolina,
17 upon properties purchased pursuant to this Article."

18 **SECTION 2.5.** G.S. 113-77.7 is amended by adding a new subsection to
19 read:

20 "(d) Monies in the Fund are appropriated annually and may be used for the
21 purposes provided in G.S. 113-77.9."

22 **PART 3. CLEAN WATER CONSERVATION**

23 **SECTION 3.1.** Authorization. – In accordance with G.S. 142-83, this part
24 authorizes the issuance or incurrence of special indebtedness in the maximum principal
25 amount provided in this part to be used to finance the cost of clean water projects. As
26 used in this part, the term "clean water project" means a capital project for one or more
27 purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized
28 by this section shall be issued or incurred only in accordance with Article 9 of Chapter
29 142 of the General Statutes.

30 **SECTION 3.2.** Identification of Clean Water Projects. – The specific clean
31 water projects for which the special indebtedness may be used are to be identified by the
32 Clean Water Management Trust Fund Board of Trustees as provided in
33 G.S. 113A-256(j).

34 **SECTION 3.3.** Maximum Amount. – The maximum principal amount of
35 special indebtedness that may be issued pursuant to this part is the lesser of three
36 hundred fifty million dollars (\$350,000,000) or the maximum amount for which the
37 aggregate annual principal and interest payments to be made in any year on the special
38 indebtedness will not exceed the annual amount identified in G.S. 113A-256. If the
39 annual amount is increased, the maximum principal amount increases accordingly, but
40 not above three hundred fifty million dollars (\$350,000,000). The amount of special
41 indebtedness to be issued at any time is determined in accordance with Article 9 of
42 Chapter 142 of the General Statutes.

43 **SECTION 3.4.** G.S. 113A-253(c) reads as rewritten:

1 "(c) Fund Purposes. – Moneys from the Fund are appropriated annually and may
2 be used for any of the following purposes:

3 (1) To acquire land for riparian buffers for the purposes of providing
4 environmental protection for surface waters and urban drinking water
5 supplies and establishing a network of riparian greenways for
6 environmental, educational, and recreational ~~uses-uses~~, and to retire
7 debt incurred for this purpose under Article 9 of Chapter 142 of the
8 General Statutes.

9 (2) To acquire conservation easements or other interests in real property
10 for the purpose of protecting and conserving surface waters and urban
11 drinking water ~~supplies-supplies~~, and to retire debt incurred for this
12 purpose under Article 9 of Chapter 142 of the General Statutes.

13 (3) To coordinate with other public programs involved with lands
14 adjoining water bodies to gain the most public benefit while protecting
15 and improving water ~~quality-quality~~, and to retire debt incurred for this
16 purpose under Article 9 of Chapter 142 of the General Statutes.

17 (4) To restore previously degraded lands to reestablish their ability to
18 protect water ~~quality-quality~~, and to retire debt incurred for this
19 purpose under Article 9 of Chapter 142 of the General Statutes.

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

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

33 (7) To improve stormwater controls and management practices.

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

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

36 **SECTION 3.5.** G.S. 113A-256 is amended by adding a new subsection to
37 read:

38 "(j) Debt. – Of the funds credited annually to the Fund, the Trustees may
39 authorize expenditure of a portion to reimburse the General Fund for debt service on
40 special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the
41 General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order
42 to authorize expenditure of funds for debt service reimbursement, the Trustees must
43 identify to the State Treasurer and the Department of Administration the specific capital
44 projects for which they would like special indebtedness to be issued or incurred and the

1 annual amount they intend to make available, and request the State Treasurer to issue or
2 incur the indebtedness. After special indebtedness has been issued or incurred for a
3 capital project requested by the Trustees, the Trustees must direct the State Treasurer to
4 credit to the General Fund each year the actual aggregate principal and interest
5 payments to be made in that year on the special indebtedness, as identified by the State
6 Treasurer."

7 **PART 4. GENERAL PROVISIONS**

8 **SECTION 4.** It is the intent of the General Assembly that the proceeds of
9 special indebtedness issued under this act shall be applied for the purposes provided in
10 this act, including the acquisition by conservation easement, or otherwise, of land near
11 military bases to prevent encroachment. This acquisition shall be a high priority because
12 of its vital importance to the State of North Carolina.

13 **SECTION 5.** This act is effective when it becomes law.