

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**SENATE BILL 1064
Finance Committee Substitute Adopted 6/8/04
Appropriations/Base Budget Committee Substitute Adopted 6/9/04
Fourth Edition Engrossed 6/10/04**

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

(Public)

Sponsors:

Referred to:

May 13, 2004

A BILL TO BE ENTITLED

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

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

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

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

6 "**§ 113-44.15. Parks and Recreation Trust Fund.**

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

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

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

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

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

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

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

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

1 Authority also shall provide a progress report no later than March 15 of each year to the
2 same recipients on the activities of and the expenditures from the Trust Fund for the
3 current fiscal year.

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

16 **PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL** 17 **HERITAGE**

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

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

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

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

39 **"§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust** 40 **Fund.**

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

1 Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the
2 Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the
3 Trustees with the following information:

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

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

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

1 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land
2 pursuant to this Article, the first priority shall be the protection of land with outstanding
3 natural or cultural heritage values. Land with outstanding natural heritage values is land
4 that is identified by the North Carolina Natural Heritage Program as having State or
5 national significance. Land with outstanding cultural heritage values is land that is
6 identified, inventoried, or evaluated by the Department of Cultural Resources. The
7 Trustees shall be guided by any priorities established by the Secretary, the Chairman of
8 the Wildlife Resources Commission, the Commissioner of Agriculture, and the
9 Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of
10 this section.

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

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

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

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

1 (d1) Local Reimbursement. – In any county in which real property was purchased
2 pursuant to subsection (d) of this section as additions to the fish and wildlife
3 management areas and where less than twenty-five percent (25%) of the land area is
4 privately owned at the time of purchase, that county and any other local taxing unit shall
5 be annually reimbursed, for a period of 20 years, from funds available to the North
6 Carolina Wildlife Resources Commission in an amount equal to the amount of ad
7 valorem taxes that would have been paid to the taxing unit if the property had remained
8 subject to taxation.

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

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

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

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

24 **PART 3. CLEAN WATER CONSERVATION**

25 **SECTION 3.1.** Authorization. – In accordance with G.S. 142-83, this part
26 authorizes the issuance or incurrence of special indebtedness in the maximum principal
27 amount provided in this part to be used to finance the cost of clean water projects. As
28 used in this part, the term "clean water project" means a capital project for one or more
29 purposes provided in G.S. 113A-253(c)(1) through (4). Special indebtedness authorized
30 by this section shall be issued or incurred only in accordance with Article 9 of Chapter
31 142 of the General Statutes.

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

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

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

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

- 4 (1) To acquire land for riparian buffers for the purposes of providing
5 environmental protection for surface waters and urban drinking water
6 supplies and establishing a network of riparian greenways for
7 environmental, educational, and recreational ~~uses~~uses, and to retire
8 debt incurred for this purpose under Article 9 of Chapter 142 of the
9 General Statutes.
- 10 (2) To acquire conservation easements or other interests in real property
11 for the purpose of protecting and conserving surface waters and urban
12 drinking water ~~supplies~~supplies, and to retire debt incurred for this
13 purpose under Article 9 of Chapter 142 of the General Statutes.
- 14 (3) To coordinate with other public programs involved with lands
15 adjoining water bodies to gain the most public benefit while protecting
16 and improving water ~~quality~~quality, and to retire debt incurred for this
17 purpose under Article 9 of Chapter 142 of the General Statutes.
- 18 (4) To restore previously degraded lands to reestablish their ability to
19 protect water ~~quality~~quality, and to retire debt incurred for this
20 purpose under Article 9 of Chapter 142 of the General Statutes.
- 21 (5) To repair failing waste treatment systems if: (i) an application has first
22 been submitted to receive a loan or grant from the Clean Water
23 Revolving Loan and Grant Fund and the application was denied during
24 the latest review cycle; (ii) the repair is a reasonable remedy for
25 resolving an existing waste treatment problem; and (iii) the repair is
26 not for the purpose of expanding the system to accommodate future
27 anticipated growth of a community. Priority shall be given to
28 economically distressed units of local government.
- 29 (6) To repair and eliminate failing septic tank systems, to eliminate illegal
30 drainage connections, and to expand waste treatment systems if the
31 system is being expanded as a remedy to eliminate failing septic tank
32 systems or illegal drainage connections. Priority shall be given to
33 economically distressed units of local government.
- 34 (7) To improve stormwater controls and management practices.
- 35 (8) To facilitate planning that targets reductions in surface water pollution.
- 36 (9) To fund operating expenses of the Board of Trustees and its staff."

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

38 read:

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

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

8 **PART 4. GENERAL PROVISIONS**

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

14 **SECTION 4.1.** None of the proceeds of special indebtedness authorized by
15 this act may be used to acquire any property by eminent domain.

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