

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE BILL 726

Short Title: Park Condemnation.

(Public)

Sponsors: Senators Berger of Rockingham; and Bingham.

Referred to: Judiciary I.

March 22, 2005

A BILL TO BE ENTITLED

1 AN ACT TO RESTRICT THE AUTHORITY OF THE STATE TO CONDEMN
2 PROPERTY FOR STATE PARKS, STATE GAMELANDS, AND
3 CONSERVATION PURPOSES.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 146-24.1 reads as rewritten:

7 "**§ 146-24.1. The power of eminent domain.**

8 (a) In carrying out the duties and purposes set forth in Chapters 143 and 146 of
9 the General Statutes, the Department of Administration is vested with the power of
10 eminent domain and shall have the right and power to acquire such lands, easements,
11 rights-of- way or estates for years by condemnation in the manner prescribed by
12 G.S. 146-24 of the General Statutes. The power of eminent domain herein granted is
13 supplemental to and in addition to the power of eminent domain which may be now or
14 hereafter vested in any State agency as defined by G.S. 146-64 and the Department of
15 Administration may exercise on behalf of such agency the power vested in said agency
16 or the power vested in the Department of Administration herein; and the Department of
17 Administration may follow the procedure set forth in G.S. 146-24 or the procedure of
18 such agency, at the option of the Department of Administration. Where such acquisition
19 is made at the request of an agency, such agency shall make a determination of the
20 necessity therefor; where such acquisition is on behalf of the State or at the request of
21 the Department of Administration, such findings shall be made by the Director of
22 Administration. Provided, however, that all such acquisitions shall have the approval of
23 the Governor and Council of State as provided in G.S. 146-24.

24 This section shall not apply to public projects and condemnations for which specific
25 statutory condemnation authority and procedures are otherwise provided.

26 (b) Notwithstanding this section, G.S. 113-34, or any other provision of law, the
27 State may not acquire any property by eminent domain for State parks, State gamelands,
28 or conservation purposes except if:

- 1 (1) There is a question or uncertainty of title to the property, and the
2 proceeding is used to clear title;
3 (2) The property owner is willing to sell, but the State and the property
4 owner have been unable to agree on a price for the property; or
5 (3) The property owner agrees to the condemnation."

6 **SECTION 2.** This act is effective when it becomes law.