

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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SENATE BILL 933\*

Short Title: Wetlands Reimbursement/Local Tax Base. (Public)

Sponsors: Senators Hargett; Apodaca, Holloman, Stevens, and Tillman.

Referred to: Finance.

April 3, 2003

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. Agreement to make payment in lieu of future ad valorem 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 a final judgment may be entered or a final condemnation  
resolution adopted in an action of condemnation initiated 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 estimated amount of ad valorem taxes that would  
have accrued to the county for the next 20 years had the land not been acquired by the  
condemnor.

(b) Purchase. – Notwithstanding the provisions of G.S. 130A-55, 153A-15,  
153A-158, 160A-240.1, or any other general law or local act conferring the power to  
acquire real property, before any unit of local government whose property is exempt  
from tax under Section 2(3) of Article V of the North Carolina Constitution purchases  
any land for the purpose of wetlands mitigation, the unit shall agree in writing to pay to  
the county where the land is located a sum equal to the estimated amount of ad valorem  
taxes that would have accrued to the county for the next 20 years had the land not been  
acquired by the acquiring unit.

1       (c) Definition. – For purposes of this section, the "estimated amount of ad  
2 valorem taxes that would have accrued for the next 20 years" means the total assessed  
3 value of the acquired land excluded from the county's tax base multiplied by the tax rate  
4 set by the county board of commissioners in its most recent budget ordinance adopted  
5 under Chapter 159 of the General Statutes, and then multiplied by 20.

6       (d) Exception. – This section does not apply to any condemnation or acquisition  
7 of land by a city or special district if the land to be condemned or acquired is within the  
8 corporate limits of that city or special district or within the county where the city or  
9 special district is located.

10       (e) Application. – This section applies only to land acquired in counties  
11 designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

12       **SECTION 2.** G.S. 143-214.11 is amended by adding a new subsection to  
13 read:

14       "(g) Payment for Taxes. – A State agency acquiring land to restore, enhance,  
15 preserve, or create wetlands must also pay a sum in lieu of ad valorem taxes lost by the  
16 county in accordance with G.S. 146-22.3."

17       **SECTION 3.** G.S. 143-214.12(a) reads as rewritten:

18       "(a) Wetlands Restoration Fund. – The Wetlands Restoration Fund is established  
19 as a nonreverting fund within the Department. The Fund shall be treated as a special  
20 trust fund and shall be credited with interest by the State Treasurer pursuant to G.S.  
21 147-69.2 and G.S. 147-69.3. The Wetlands Restoration Fund shall provide a repository  
22 for monetary contributions and donations or dedications of interests in real property to  
23 promote projects for the restoration, enhancement, preservation, or creation of wetlands  
24 and riparian areas and for payments made in lieu of compensatory mitigation as  
25 described in subsection (b) of this section. No funds shall be expended from this Fund  
26 for any purpose other than those directly contributing to the acquisition, perpetual  
27 maintenance, enhancement, restoration, or creation of wetlands and riparian areas in  
28 accordance with the basinwide plan as described in G.S. 143-214.10. The cost of  
29 acquisition includes a payment in lieu of ad valorem taxes required under G.S. 146-22.3  
30 when the Department is the State agency making the acquisition."

31       **SECTION 4.** Article 6 of Chapter 146 of the General Statutes is amended by  
32 adding a new section to read:

33       "§ 146-22.3. Acquisition of land to be used to restore, enhance, preserve, or create  
34 wetlands.

35       "(a) Payment. – A State agency that acquires land by purchase for the purpose of  
36 restoring, enhancing, preserving, or creating wetlands as required by a permit or an  
37 authorization issued by the United States Army Corps of Engineers under 33 U.S.C. §  
38 1344 must pay to the county in which the land is located, as reimbursement, a sum equal  
39 to the estimated amount of ad valorem taxes that would have accrued to the county for  
40 the next 20 years had the land not been acquired by the State agency.

41       "(b) Exception. – This section does not apply when the land purchased by the  
42 State agency and the wetlands permitted to be lost are located in the same county. In  
43 other circumstances, the governing body of the county and the State agency may enter  
44 into a written agreement to waive payment.

1       (c) Amount. – The estimated amount of ad valorem taxes that would have  
2 accrued for the next 20 years is the total assessed value of the acquired land excluded  
3 from the county's tax base multiplied by the tax rate set by the county board of  
4 commissioners in its most recent budget ordinance adopted under Chapter 159 of the  
5 General Statutes, and then multiplied by 20.

6       (d) Application. – This section applies only to land acquired in counties  
7 designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

8               **SECTION 5.** Article 6 of Chapter 146 of the General Statutes is amended by  
9 adding a new section to read:

10 **"§ 146-22.4. Acquisition of wetlands from private mitigation banking companies.**

11       (a) Payment for Taxes. – A State agency that acquires wetlands from a private  
12 mitigation banking company must pay a sum in lieu of ad valorem taxes to the county  
13 where the wetlands are located. The sum is equal to the estimated amount of ad valorem  
14 taxes that would have accrued for the next 20 years as computed in G.S. 146-22.3(c).

15       (b) Requirement for Acquisition. – A State agency may require, as a condition of  
16 accepting a donation of wetlands by a private mitigation banking company, that the  
17 company make adequate provisions for the long-term maintenance and management of  
18 the wetlands. These provisions may include reimbursement to the agency for payment  
19 of a sum in lieu of ad valorem taxes.

20       (c) Application. – This section applies only to land acquired in counties  
21 designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

22               **SECTION 6.** Article 6 of Chapter 146 of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 146-22.5. Reimbursement of payment in lieu of future ad valorem taxes.**

25       (a) If a State agency acquires land under G.S. 146-22.3 or G.S. 146-22.4 and  
26 later uses this land to mitigate wetlands permitted to be lost in the same county, then the  
27 county shall reimburse the State agency for a percentage of the estimated amount of ad  
28 valorem taxes paid for the land in accordance with G.S. 146-22.3 minus ten percent  
29 (10%) of this amount times the number of years the State agency held the land before  
30 the wetlands were lost.

31       (b) Application. – This section applies only to land acquired in counties  
32 designated as an enterprise tier one or enterprise tier two area under G.S. 105-129.3."

33               **SECTION 7.** This act is effective when it becomes law and applies to  
34 transfers made on or after that date.