

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 583

Short Title: Wetlands Reimbursement/Local Tax Base.

(Public)

Sponsors: Representative Wainwright.

Referred to: Environment and Natural Resources.

March 20, 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.