

**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
House Committee Substitute Favorable 6/23/04**

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; TO
6 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, but are limited
23 to the following projects:

- 24 (1) To acquire by conservation easement or fee simple up to 17,000 acres
25 near North Carolina military bases in order to prevent encroachment
26 by incompatible development. The maximum amount for this purpose

1 is twenty-six million dollars (\$26,000,000) minus the amount of
2 special indebtedness issued or incurred for this purpose under parts 2
3 and 3 of this act.

4 (2) To make capital improvements to an existing State park as part of its
5 expansion. The maximum amount for this purpose is five million
6 dollars (\$5,000,000) minus the amount of special indebtedness issued
7 or incurred for this purpose under parts 2 and 3 of this act.

8 (3) To make capital improvements to an existing State park as part of its
9 expansion and to acquire up to 6,000 acres to expand an existing State
10 park, to provide gamelands to help protect North Carolina rivers, and
11 for two new State parks along North Carolina rivers. The maximum
12 amount for this purpose is thirty-seven million dollars (\$37,000,000)
13 minus the amount of special indebtedness issued or incurred for this
14 purpose under parts 2 and 3 of this act.

15 **SECTION 1.3.** Maximum Amount. – The maximum principal amount of
16 special indebtedness that may be issued or incurred pursuant to this part is the lesser of
17 (i) the sum of the dollar amounts listed in Section 1.2 of this part or (ii) the maximum
18 amount for which the aggregate annual principal and interest payments to be made in
19 any year on the special indebtedness will not exceed the annual amount identified by the
20 Authority as provided in G.S. 113-44.15(d). If the annual amount is increased, the
21 maximum principal amount increases accordingly, but not above the sum of the dollar
22 amounts listed in Section 1.2 of this part. The amount of special indebtedness to be
23 issued or incurred at any time is determined in accordance with Article 9 of Chapter 142
24 of the General Statutes.

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

26 "**§ 113-44.15. Parks and Recreation Trust Fund.**

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

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

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

40 (2) Thirty percent (30%) to provide matching funds to local governmental
41 units or public authorities as defined in G.S. 159-7 on a
42 dollar-for-dollar basis for local park and recreation purposes. The
43 appraised value of land that is donated to a local government unit or
44 public authority may be applied to the matching requirement of this

1 subdivision. These funds shall be allocated by the North Carolina
2 Parks and Recreation Authority based on criteria patterned after the
3 Open Project Selection Process established for the Land and Water
4 Conservation Fund administered by the National Park Service of the
5 United States Department of the Interior.

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

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

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

16 (c) Reports. – The North Carolina Parks and Recreation Authority shall report no
17 later than October 1 of each year to the Joint Legislative Commission on Governmental
18 Operations, the House and Senate Appropriations Subcommittees on Natural and
19 Economic Resources, the Fiscal Research Division, and the Environmental Review
20 Commission on allocations from the Trust Fund from the prior fiscal year. The
21 Authority also shall provide a progress report no later than March 15 of each year to the
22 same recipients on the activities of and the expenditures from the Trust Fund for the
23 current fiscal year.

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

36 **PART 2. PARKS, RECREATION, AND PRESERVATION OF NATURAL** 37 **HERITAGE**

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

1 **SECTION 2.2.** Identification of Natural Heritage Projects. – The specific
2 natural heritage projects for which the special indebtedness may be used are to be
3 identified by the Trustees of the Natural Heritage Trust Fund as provided in
4 G.S. 113-77.9, but are limited to the following projects:

- 5 (1) To acquire by conservation easement or fee simple up to 17,000 acres
6 near North Carolina military bases in order to prevent encroachment
7 by incompatible development. The maximum amount for this purpose
8 is twenty-six million dollars (\$26,000,000) minus the amount of
9 special indebtedness issued or incurred for this purpose under parts 1
10 and 3 of this act.
- 11 (2) To make capital improvements to an existing State park as part of its
12 expansion. The maximum amount for this purpose is five million
13 dollars (\$5,000,000) minus the amount of special indebtedness issued
14 or incurred for this purpose under parts 1 and 3 of this act.
- 15 (3) To make capital improvements to an existing State park as part of its
16 expansion and to acquire up to 6,000 acres to expand an existing State
17 park, to provide gamelands to help protect North Carolina rivers, and
18 for two new State parks along North Carolina rivers. The maximum
19 amount for this purpose is thirty-seven million dollars (\$37,000,000)
20 minus the amount of special indebtedness issued or incurred for this
21 purpose under parts 1 and 3 of this act.

22 **SECTION 2.3.** Maximum Amount. – The maximum principal amount of
23 special indebtedness that may be issued pursuant to this part is the lesser of (i) the sum
24 of the dollar amounts listed in Section 2.2 of this part or (ii) the maximum amount for
25 which the aggregate annual principal and interest payments to be made in any year on
26 the special indebtedness will not exceed the annual amount identified in G.S. 113-77.9.
27 If the annual amount is increased, the maximum principal amount increases
28 accordingly, but not above the sum of the dollar amounts listed in Section 2.2 of this
29 part. The amount of special indebtedness to be issued at any time is determined in
30 accordance with Article 9 of Chapter 142 of the General Statutes.

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

32 "**§ 113-77.9. Acquisition of lands with funds from the Natural Heritage Trust**
33 **Fund.**

34 (a) Proposals. – From time to time, but at least once each year, the Secretary, the
35 Chairman of the North Carolina Wildlife Resources Commission, the Commissioner of
36 Agriculture, and the Secretary of Cultural Resources may propose to the Trustees lands
37 to be acquired with funds from the Fund. For each tract or interest proposed, the
38 Secretary, the Chairman of the North Carolina Wildlife Resources Commission, the
39 Commissioner of Agriculture, and the Secretary of Cultural Resources shall provide the
40 Trustees with the following information:

- 41 (1) The value of the land for recreation, forestry, fish and wildlife habitat,
42 and wilderness purposes, and its consistency with the plan developed
43 pursuant to the State Parks Act, the State's comprehensive plan for

1 outdoor recreation, parks, natural areas development, and wildlife
2 management goals and objectives.

3 (2) Any rare or endangered species on or near the land.

4 (3) Whether the land contains a relatively undisturbed and outstanding
5 example of a native North Carolina ecological community that is now
6 uncommon.

7 (4) Whether the land contains a major river or tributary, watershed,
8 wetland, significant littoral, estuarine, or aquatic site, or important
9 geologic feature.

10 (5) The extent to which the land represents a type of landscape, natural
11 feature, or natural area that is not currently in the State's inventory of
12 parks and natural areas.

13 (6) Other sources of funds that may be available to assist in acquiring the
14 land.

15 (7) The State department or division that will be responsible for managing
16 the land.

17 (8) What assurances exist that the land will not be used for purposes other
18 than those for which it is being acquired.

19 (9) Whether the site or structure is of such historical significance as to be
20 essential to the development of a balanced State program of historic
21 properties.

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

24 (1) To acquire land ~~Land~~ that represents the ecological diversity of North
25 Carolina, including natural features such as riverine, montane, coastal,
26 and geologic systems and other natural areas to ensure their
27 preservation and conservation for recreational, scientific, educational,
28 cultural, and aesthetic ~~purposes.~~ purposes, and to retire debt incurred
29 for this purpose under Article 9 of Chapter 142 of the General Statutes.

30 (2) To acquire land ~~Land~~ as additions to the system of parks, State trails,
31 aesthetic forests, fish and wildlife management areas, wild and scenic
32 rivers, and natural areas for the beneficial use and enjoyment of the
33 ~~public.~~ public, and to retire debt incurred for this purpose under Article
34 9 of Chapter 142 of the General Statutes.

35 (3) Subject to the limitations of subsection (b2) of this section, to acquire
36 land that contributes to the development of a balanced State program
37 of historic properties.

38 (b1) Priorities. – In authorizing expenditures from the Fund to acquire land
39 pursuant to this Article, the first priority shall be the protection of land with outstanding
40 natural or cultural heritage values. Land with outstanding natural heritage values is land
41 that is identified by the North Carolina Natural Heritage Program as having State or
42 national significance. Land with outstanding cultural heritage values is land that is
43 identified, inventoried, or evaluated by the Department of Cultural Resources. The
44 Trustees shall be guided by any priorities established by the Secretary, the Chairman of

1 the Wildlife Resources Commission, the Commissioner of Agriculture, and the
2 Secretary of Cultural Resources in their proposals made pursuant to subsection (a) of
3 this section.

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

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

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

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

38 (d1) Local Reimbursement. – In any county in which real property was purchased
39 pursuant to subsection (d) of this section as additions to the fish and wildlife
40 management areas and where less than twenty-five percent (25%) of the land area is
41 privately owned at the time of purchase, that county and any other local taxing unit shall
42 be annually reimbursed, for a period of 20 years, from funds available to the North
43 Carolina Wildlife Resources Commission in an amount equal to the amount of ad

1 valorem taxes that would have been paid to the taxing unit if the property had remained
2 subject to taxation.

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

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

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

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

18 **PART 3. CLEAN WATER CONSERVATION**

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

26 **SECTION 3.2.** Identification of Clean Water Projects. – The specific clean
27 water projects for which the special indebtedness may be used are to be identified by the
28 Clean Water Management Trust Fund Board of Trustees as provided in
29 G.S. 113A-256(j), but are limited to the following projects:

- 30 (1) To acquire by conservation easement or fee simple up to 17,000 acres
31 near North Carolina military bases in order to prevent encroachment
32 by incompatible development. The maximum amount for this purpose
33 is twenty-six million dollars (\$26,000,000) minus the amount of
34 special indebtedness issued or incurred for this purpose under parts 1
35 and 2 of this act.
- 36 (2) To make capital improvements to an existing State park as part of its
37 expansion. The maximum amount for this purpose is five million
38 dollars (\$5,000,000) minus the amount of special indebtedness issued
39 or incurred for this purpose under parts 1 and 2 of this act.
- 40 (3) To make capital improvements to an existing State park as part of its
41 expansion and to acquire up to 6,000 acres to expand an existing State
42 park, to provide gamelands to help protect North Carolina rivers, and
43 for two new State parks along North Carolina rivers. The maximum
44 amount for this purpose is thirty-seven million dollars (\$37,000,000)

1 minus the amount of special indebtedness issued or incurred for this
2 purpose under parts 1 and 2 of this act.

3 **SECTION 3.3.** Maximum Amount. – The maximum principal amount of
4 special indebtedness that may be issued pursuant to this part is the lesser of (i) the sum
5 of the dollar amounts listed in Section 3.2 of this part or (ii) the maximum amount for
6 which the aggregate annual principal and interest payments to be made in any year on
7 the special indebtedness will not exceed the annual amount identified in G.S. 113A-256.
8 If the annual amount is increased, the maximum principal amount increases
9 accordingly, but not above the sum of the dollar amounts listed in Section 3.2 of this
10 part. The amount of special indebtedness to be issued at any time is determined in
11 accordance with Article 9 of Chapter 142 of the General Statutes.

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

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

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

- 1 (7) To improve stormwater controls and management practices.
2 (8) To facilitate planning that targets reductions in surface water pollution.
3 (9) To fund operating expenses of the Board of Trustees and its staff."

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

6 "(j) Debt. – Of the funds credited annually to the Fund, the Trustees may
7 authorize expenditure of a portion to reimburse the General Fund for debt service on
8 special indebtedness to be issued or incurred under Article 9 of Chapter 142 of the
9 General Statutes for the purposes provided in G.S. 113A-253(c)(1) through (4). In order
10 to authorize expenditure of funds for debt service reimbursement, the Trustees must
11 identify to the State Treasurer and the Department of Administration the specific capital
12 projects for which they would like special indebtedness to be issued or incurred and the
13 annual amount they intend to make available, and request the State Treasurer to issue or
14 incur the indebtedness. After special indebtedness has been issued or incurred for a
15 capital project requested by the Trustees, the Trustees must direct the State Treasurer to
16 credit to the General Fund each year the actual aggregate principal and interest
17 payments to be made in that year on the special indebtedness, as identified by the State
18 Treasurer."

19 **PART 4. GENERAL PROVISIONS**

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

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

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