

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE BILL 1770  
Committee Substitute Favorable 5/9/07  
Committee Substitute #2 Favorable 5/21/07  
Senate Finance Committee Substitute Adopted 7/9/08

Short Title: Future Conveyances/Special Assessments.

(Public)

Sponsors:

Referred to:

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE AUTHORITY OF THE PARTIES TO  
CONSERVATION AND PRESERVATION AGREEMENTS TO INCLUDE  
PROVISIONS IN THE AGREEMENTS FOR THE PAYMENT OF FEES UPON  
FUTURE CONVEYANCE OF PROPERTY SUBJECT TO THE AGREEMENTS  
AND TO ALLOW SPECIAL ASSESSMENTS TO BE PAID IN MORE THAN  
TEN ANNUAL INSTALLMENTS AND TO BE PLEDGED TO THE  
REPAYMENT OF REVENUE BONDS ISSUED FOR CRITICAL  
INFRASTRUCTURE NEEDS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 121-38 reads as rewritten:

**"§ 121-38. Validity of agreements.**

(a) No conservation or preservation agreement shall be unenforceable because of

(1) Lack of privity of estate or contract, or

(2) Lack of benefit to particular land or person, or

(3) The assignability of the benefit to another holder as defined in this  
Article.

(b) ~~Such~~ These agreements are interests in land and may be acquired by any  
holder in the same manner as it may acquire other interests in land.

(c) ~~Such~~ These agreements may be effective perpetually or for shorter stipulated  
periods of time.

(d) ~~Such~~ These agreements may impose present, future, or continuing obligations  
on either party to the agreement, or their successors, in furtherance of the purposes of  
the agreement.

(e) These agreements may contain provisions which require the payment of a fee  
upon a future conveyance of the property that is subject to the agreement."



1 assessment resolution. A petition submitted under subsection (a) of this section may be  
2 withdrawn if notice of petition withdrawal is given in writing to the board signed by at  
3 least a majority of the owners who signed the petition submitted under subsection (a) of  
4 this section representing at least fifty percent (50%) of the assessed value of all real  
5 property to be assessed. The board may not adopt a final assessment resolution if it  
6 receives a timely notice of petition withdrawal.

7 (c) **Validity of Assessment.** – No right of action or defense asserting the  
8 invalidity of an assessment on grounds that the county did not comply with this section  
9 may be asserted except in an action or proceeding begun within 90 days after  
10 publication of the notice of adoption of the preliminary assessment resolution.

11 **§ 153A-210.4. Financing a project for which an assessment is imposed.**

12 A board of commissioners may provide for the payment of the cost of a project for  
13 which an assessment may be imposed under this Article solely from revenue bonds to  
14 be repaid from the assessments or from a combination of financing sources that include  
15 the revenue bonds. Other financing sources include general obligation bonds and  
16 general revenues. The assessment resolution must include the estimated cost of the  
17 project and the amount of the cost to be derived from revenue bonds and any other  
18 financing source.

19 **§ 153A-210.5. Payment of assessments by installments.**

20 An assessment imposed under this Article is payable in annual installments. The  
21 board of commissioners must set the number of annual installments, which may not be  
22 more than 30. The installments are due on the date that property taxes are due.

23 **§ 153A-210.6. Revenue bonds.**

24 (a) **Authorization.** – A board of commissioners that imposes an assessment under  
25 this Article may issue revenue bonds under Article 5 of Chapter 159 of the General  
26 Statutes to finance the project for which the assessment is imposed and use the proceeds  
27 of the assessment imposed as revenues pertaining to the project.

28 (b) **Modifications.** – This Article specifically modifies the authority of a county  
29 to issue revenue bonds under Article 5 of Chapter 159 of the General Statutes by  
30 extending the authority in that Article to include a project for which an assessment may  
31 be imposed under this Article. In applying the provisions of Article 5, the following  
32 definitions apply:

33 (1) **Revenue bond project.** – Defined in G.S. 159-81(3). The term includes  
34 projects for which an assessment is imposed under this Article.

35 (2) **Revenues.** – Defined in G.S. 159-81(4). The term includes assessments  
36 imposed under this Article to finance a project allowed under this  
37 Article."

38 **SECTION 3.** Chapter 160A of the General Statutes is amended by adding a  
39 new article to read:

40 "Article 10A.

41 "Special Assessments for Critical Infrastructure Needs.

42 **§ 160A-239.1. Purpose.**

43 This Article enables cities that face increased demands for infrastructure  
44 improvements as a result of rapid growth and development to issue revenue bonds

1 payable from special assessments imposed under this Article on benefited property. This  
2 Article supplements the authority cities have in Article 10 of this Chapter. The  
3 provisions of Article 10 of this Chapter apply to this Article, to the extent they do not  
4 conflict with this Article.

5 **"§ 160A-239.2. Assessments.**

6 (a) Projects. – The council of a city may make special assessments against  
7 benefited property within the city for the purpose of financing the capital costs of  
8 projects for which bonds may be issued under any of the following:

9 (1) G.S. 159-48(b)(17), sanitary sewer systems.

10 (2) G.S. 159-48(b)(19), storm sewers and flood control facilities.

11 (3) G.S. 159-48(b)(21), water systems.

12 (4) G.S. 159-48(b)(23), public transportation facilities.

13 (5) G.S. 159-48(c)(4), school facilities.

14 (6) G.S. 159-48(d)(5), streets and sidewalks.

15 (b) Costs. – The city council must determine a project's total estimated cost. In  
16 addition to the costs allowed under G.S. 153A-193, the costs may include any expenses  
17 allowed under G.S. 159-84. An assessment may be imposed before the costs are  
18 incurred, based on the estimated cost.

19 (c) Method. – The city council must establish an assessment method that will  
20 most accurately assess each lot or parcel of land according to the benefits conferred  
21 upon it by the project for which the assessment is made. In addition to the bases upon  
22 which assessments may be made under G.S. 153A-186, the council may select any other  
23 method designed to allocate the costs in accordance with benefits conferred.

24 **"§ 160A-239.3. Petition required.**

25 (a) Petition. – The city council may not impose a special assessment under this  
26 Article unless it receives a petition for the project to be financed by the assessment  
27 signed by at least a majority of the owners of real property to be assessed who must  
28 represent at least sixty-six percent (66%) of the assessed value of all real property to be  
29 assessed. The petition must include the following:

30 (1) A statement of the project proposed to be financed in whole or in part  
31 by the imposition of an assessment under this Article.

32 (2) An estimate of the cost of the project.

33 (3) An estimate of the portion of the cost of the project to be assessed.

34 (b) Petition Withdrawn. – The city council must wait at least 10 days after the  
35 public hearing on the preliminary assessment resolution before adopting a final  
36 assessment resolution. A petition submitted under subsection (a) of this section may be  
37 withdrawn if notice of petition withdrawal is given in writing to the council signed by at  
38 least a majority of the owners who signed the petition submitted under subsection (a) of  
39 this section representing at least fifty percent (50%) of the assessed value of all real  
40 property to be assessed. The council may not adopt a final assessment resolution if it  
41 receives a timely notice of petition withdrawal.

42 (c) Validity of Assessment. – No right of action or defense asserting the  
43 invalidity of an assessment on grounds that the city did not comply with this section

1 may be asserted except in an action or proceeding begun within 90 days after  
2 publication of the notice of adoption of the preliminary assessment resolution.

3 **"§ 160A-239.4. Financing a project for which an assessment is imposed.**

4 A city council may provide for the payment of the cost of a project for which an  
5 assessment may be imposed under this Article solely from revenue bonds to be repaid  
6 from the assessments or from a combination of financing sources that include the  
7 revenue bonds. Other financing sources include general obligation bonds and general  
8 revenues. The assessment resolution must include the estimated cost of the project and  
9 the amount of the cost to be derived from revenue bonds and any other financing source.

10 **"§ 160A-239.5. Payment of assessments by installments.**

11 An assessment imposed under this Article is payable in annual installments. The city  
12 council must set the number of annual installments, which may not be more than 30.  
13 The installments are due on the date that property taxes are due.

14 **"§ 160A-239.6. Revenue bonds.**

15 (a) Authorization. – A city council that imposes an assessment under this Article  
16 may issue revenue bonds under Article 5 of Chapter 159 of the General Statutes to  
17 finance the project for which the assessment is imposed and use the proceeds of the  
18 assessment imposed as revenues pertaining to the project.

19 (b) Modifications. – This Article specifically modifies the authority of a city to  
20 issue revenue bonds under Article 5 of Chapter 159 of the General Statutes by extending  
21 the authority in that Article to include a project for which an assessment may be  
22 imposed under this Article. In applying the provisions of Article 5, the following  
23 definitions apply:

24 (1) Revenue bond project. – Defined in G.S. 159-81(3). The term includes  
25 projects for which an assessment is imposed under this Article.

26 (2) Revenues. – Defined in G.S. 159-81(4). The term includes assessments  
27 imposed under this Article to finance a project allowed under this  
28 Article."

29 **SECTION 4.** If any provision of this act or its application is held invalid, the  
30 invalidity does not affect other provisions or applications of this act that can be given  
31 effect without the invalid provisions or application, and to this end the provisions of this  
32 act are severable.

33 **SECTION 5.** This act is effective when it becomes law. Sections 2 and 3 of  
34 this act expire July 1, 2013. The expiration does not affect the validity of assessments  
35 imposed or bonds issued or authorized under the provisions of this act prior to the  
36 effective date of the expiration.