

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE DRH10167-LY-73 (3/13)

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

Sponsors: Representative Wainwright.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE STATE AND LOCAL GOVERNMENT AGENCIES THAT
2 ACQUIRE LAND FOR WETLANDS MITIGATION TO REIMBURSE THE
3 COUNTY IN WHICH THE LAND IS LOCATED FOR ITS LOST TAXES DUE
4 TO THE ACQUISITION.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** Article 2 of Chapter 153A of the General Statutes is amended
8 by adding a new section to read:

9 **"§ 153A-15.1. Agreement to make payment in lieu of future ad valorem taxes**
10 **required before wetlands acquisition by a unit of local government.**

11 (a) Condemnation. – Notwithstanding the provisions of G.S. 153A-15, Chapter
12 40A of the General Statutes, or any other general law or local act conferring the power
13 of eminent domain, before a final judgment may be entered or a final condemnation
14 resolution adopted in an action of condemnation initiated by a unit of local government
15 whose property is exempt from tax under Section 2(3) of Article V of the North
16 Carolina Constitution, whereby the condemnor seeks to acquire land for the purpose of
17 wetlands mitigation, the condemnor shall agree in writing to pay to the county where
18 the land is located a sum equal to the estimated amount of ad valorem taxes that would
19 have accrued to the county for the next 20 years had the land not been acquired by the
20 condemnor.

21 (b) Purchase. – Notwithstanding the provisions of G.S. 130A-55, 153A-15,
22 153A-158, 160A-240.1, or any other general law or local act conferring the power to
23 acquire real property, before any unit of local government whose property is exempt
24 from tax under Section 2(3) of Article V of the North Carolina Constitution purchases
25 any land for the purpose of wetlands mitigation, the unit shall agree in writing to pay to
26 the county where the land is located a sum equal to the estimated amount of ad valorem

1 taxes that would have accrued to the county for the next 20 years had the land not been
2 acquired by the acquiring unit.

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

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

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

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

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

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

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

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

35 **§ 146-22.3. Acquisition of land to be used to restore, enhance, preserve, or create**
36 **wetlands.**

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

43 (b) Exception. – This section does not apply when the land purchased by the
44 State agency and the wetlands permitted to be lost are located in the same county. In

1 other circumstances, the governing body of the county and the State agency may enter
2 into a written agreement to waive payment.

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

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

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

12 "**§ 146-22.4. Acquisition of wetlands from private mitigation banking companies.**

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

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

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

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

26 "**§ 146-22.5. Reimbursement of payment in lieu of future ad valorem taxes.**

27 (a) If a State agency acquires land under G.S. 146-22.3 or G.S. 146-22.4 and
28 later uses this land to mitigate wetlands permitted to be lost in the same county, then the
29 county shall reimburse the State agency for a percentage of the estimated amount of ad
30 valorem taxes paid for the land in accordance with G.S. 146-22.3 minus ten percent
31 (10%) of this amount times the number of years the State agency held the land before
32 the wetlands were lost.

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

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