

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

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**HOUSE BILL 1152**

Short Title: Boiling Spring Lakes/Habitat Conservation. (Local)

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Sponsors: Representative Stiller.

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Referred to: Local Government II.

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March 29, 2007

1                                   A BILL TO BE ENTITLED  
2 AN ACT TO AUTHORIZE THE CITY OF BOILING SPRING LAKES TO  
3 PARTICIPATE IN AND FUND A HABITAT CONSERVATION PLAN FOR THE  
4 RED-COCKADED WOODPECKER AND OTHER ENDANGERED SPECIES AS  
5 A PUBLIC ENTERPRISE.

6 The General Assembly of North Carolina enacts:

7                   **SECTION 1.** G.S. 143-254.2(a) reads as rewritten:

8           "(a) It shall be the duty and responsibility of the North Carolina Wildlife  
9 Resources Commission to enforce all local acts heretofore or hereinafter enacted  
10 respecting game animals, fur-bearing animals and birds, including local acts which  
11 prohibit or restrict hunting from, to or across public roads and highways and including  
12 local acts which prohibit or restrict the taking of specified animals or birds.

13           Provided, however, that the provisions of this section shall not apply on the lands of  
14 the Eastern Band of Cherokee Indians.

15           Notwithstanding the provisions of this section, a unit of local government may  
16 develop, adopt, and implement habitat conservation plans necessary to minimize and  
17 mitigate the incidental take of threatened and endangered species."

18                   **SECTION 2.** G.S. 160A-216 reads as rewritten:

19           "**§ 160A-216. Authority to make special assessments.**

20           Any city is authorized to make special assessments against benefited property within  
21 its corporate limits for:

- 22           (1) Constructing, reconstructing, paving, widening, installing curbs and  
23           gutters, and otherwise building and improving streets;
- 24           (2) Constructing, reconstructing, paving, widening, and otherwise building  
25           or improving sidewalks in any public street;
- 26           (3) Constructing, reconstructing, extending, and otherwise building or  
27           improving water systems;
- 28           (4) Constructing, reconstructing, extending, or otherwise building or  
29           improving sewage collection and disposal systems of all types,

1 including septic tank systems or other on-site collection or disposal  
2 facilities or systems;

3 (5) Constructing, reconstructing, extending, and otherwise building or  
4 improving storm sewer and drainage ~~systems~~systems; and

5 (6) Developing and implementing habitat conservation plans for  
6 threatened and endangered species."

7 **SECTION 3.** G.S. 160A-311 reads as rewritten:

8 **"§ 160A-311. Public enterprise defined.**

9 As used in this Article, the term "public enterprise" includes:

10 (1) Electric power generation, transmission, and distribution systems.

11 (2) Water supply and distribution systems.

12 (3) Wastewater collection, treatment, and disposal systems of all types,  
13 including septic tank systems or other on-site collection or disposal  
14 facilities or systems.

15 (4) Gas production, storage, transmission, and distribution systems, where  
16 systems shall also include the purchase or lease of natural gas fields  
17 and natural gas reserves, the purchase of natural gas supplies, and the  
18 surveying, drilling and any other activities related to the exploration  
19 for natural gas, whether within the State or without.

20 (5) Public transportation systems.

21 (6) Solid waste collection and disposal systems and facilities.

22 (7) Cable television systems.

23 (8) Off-street parking facilities and systems.

24 (9) Airports.

25 (10) Stormwater management programs designed to protect water quality  
26 by controlling the level of pollutants in, and the quantity and flow of,  
27 stormwater and structural and natural stormwater and drainage systems  
28 of all types.

29 (11) Developing and implementing habitat conservation plans for  
30 endangered species, including the red-cockaded woodpecker."

31 **SECTION 4.** G.S. 160A-314 reads as rewritten:

32 **"§ 160A-314. Authority to fix and enforce rates.**

33 (a) A city may establish and revise from time to time schedules of rents, rates,  
34 fees, charges, and penalties for the use of or the services furnished by any public  
35 enterprise. Schedules of rents, rates, fees, charges, and penalties may vary according to  
36 classes of service, and different schedules may be adopted for services provided outside  
37 the corporate limits of the city.

38 (a1) (1) Before it establishes or revises a schedule of rates, fees, charges, or  
39 penalties for stormwater management programs and structural and  
40 natural stormwater and drainage systems under this section, the city  
41 council shall hold a public hearing on the matter. A notice of the  
42 hearing shall be given at least once in a newspaper having general  
43 circulation in the area, not less than seven days before the public

1 hearing. The hearing may be held concurrently with the public hearing  
2 on the proposed budget ordinance.

3 (2) The fees established under this subsection must be made applicable  
4 throughout the area of the city. Schedules of rates, fees, charges, and  
5 penalties for providing stormwater management programs and  
6 structural and natural stormwater and drainage system service may  
7 vary according to whether the property served is residential,  
8 commercial, or industrial property, the property's use, the size of the  
9 property, the area of impervious surfaces on the property, the quantity  
10 and quality of the runoff from the property, the characteristics of the  
11 watershed into which stormwater from the property drains, and other  
12 factors that affect the stormwater drainage system. Rates, fees, and  
13 charges imposed under this subsection may not exceed the city's cost  
14 of providing a stormwater management program and a structural and  
15 natural stormwater and drainage system. The city's cost of providing a  
16 stormwater management program and a structural and natural  
17 stormwater and drainage system includes any costs necessary to assure  
18 that all aspects of stormwater quality and quantity are managed in  
19 accordance with federal and State laws, regulations, and rules.

20 (3) No stormwater utility fee may be levied under this subsection  
21 whenever two or more units of local government operate separate  
22 stormwater management programs or separate structural and natural  
23 stormwater and drainage system services in the same area within a  
24 county. However, two or more units of local government may allocate  
25 among themselves the functions, duties, powers, and responsibilities  
26 for jointly operating a stormwater management program and structural  
27 and natural stormwater and drainage system service in the same area  
28 within a county, provided that only one unit may levy a fee for the  
29 service within the joint service area. For purposes of this subsection, a  
30 unit of local government shall include a regional authority providing  
31 stormwater management programs and structural and natural  
32 stormwater and drainage system services.

33 (a2) A fee for the use of a disposal facility provided by the city may vary based on  
34 the amount, characteristics, and form of recyclable materials present in solid waste  
35 brought to the facility for disposal. This section does not prohibit a city from providing  
36 aid to low-income persons to pay all or part of the cost of solid waste management  
37 services for those persons.

38 (a3) Rents, rates, fees, charges, and penalties for habitat conservation plans may  
39 cover any and all costs associated with minimizing and mitigating the impact of the  
40 incidental take of red-cockaded woodpeckers and other threatened or endangered  
41 species in the planning jurisdiction of the city. These costs include the development and  
42 implementation of a habitat conservation plan for endangered species and any costs  
43 necessary to ensure that all aspects of the habitat conservation plan and incidental take  
44 permits for covered species are managed in accordance with federal, State, and local

1 laws, ordinances, and rules. Schedules of rents, rates, fees, charges and penalties  
2 authorized under this section or through the inherent regulatory authority of the city  
3 may vary according to whether property served by the plan is residential, commercial,  
4 or industrial property, the use of the property, the size of the property, the amount and  
5 quality of habitat for covered species on the property, whether the property is  
6 developed, undeveloped, or being developed, and any other factors that affect the  
7 development and implementation of the habitat conservation plan. Schedules of rents,  
8 rates, fees, charges, and penalties authorized under this section or through the inherent  
9 regulatory authority of the city may also vary within designated districts in the city that  
10 are identified as critical to the survival of covered endangered species or as currently  
11 inadequate to support the survival of covered endangered species due to past loss of  
12 habitat.

13 (b) A city shall have power to collect delinquent accounts by any remedy  
14 provided by law for collecting and enforcing private debts, and may specify by  
15 ordinance the order in which partial payments are to be applied among the various  
16 enterprise services covered by a bill for the services. A city may also discontinue  
17 service to any customer whose account remains delinquent for more than 10 days. When  
18 service is discontinued for delinquency, it shall be unlawful for any person other than a  
19 duly authorized agent or employee of the city to do any act that results in a resumption  
20 of services. If a delinquent customer is not the owner of the premises to which the  
21 services are delivered, the payment of the delinquent account may not be required  
22 before providing services at the request of a new and different tenant or occupant of the  
23 premises, but this restriction shall not apply when the premises are occupied by two or  
24 more tenants whose services are measured by the same meter.

25 (c) Except as provided in subsection (d) of this section and G.S. 160A-314.1,  
26 rents, rates, fees, charges, and penalties for enterprisory services shall be legal  
27 obligations of the person contracting for them, and shall in no case be a lien upon the  
28 property or premises served, provided that no contract shall be necessary in the case of  
29 structural and natural stormwater and drainage ~~systems~~. systems or habitat conservation  
30 plans.

31 (d) Rents, rates, fees, charges, and penalties for enterprisory services shall be  
32 legal obligations of the owner of the premises served when:

- 33 (1) The property or premises is leased or rented to more than one tenant  
34 and services rendered to more than one tenant are measured by the  
35 same meter.
- 36 (2) Charges made for use of a sewage system are billed separately from  
37 charges made for the use of a water distribution system.

38 (e) Nothing in this section shall repeal any portion of any city charter  
39 inconsistent herewith."

40 **SECTION 5.** This act applies only to the City of Boiling Spring Lakes.

41 **SECTION 6.** This act is effective when it becomes law.