

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS55625-LB-436A* (5/12)

Short Title: Swain Settlement Funds.

(Public)

Sponsors: Senator Snow.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ORDERLY FISCAL MANAGEMENT OF ANY
MONETARY SETTLEMENT OF THE 1943 AGREEMENT BETWEEN SWAIN
COUNTY AND THE UNITED STATES DEPARTMENT OF INTERIOR.

The General Assembly of North Carolina enacts:

SECTION 1. Legislative Findings. – It is hereby determined and declared as
a matter of legislative finding that:

- (1) Flooding caused by the construction of Fontana Dam destroyed a road that had been constructed with road bonds which had been assumed by Swain County.
- (2) The United States Department of Interior and the Tennessee Valley Authority entered into an agreement in 1943 with Swain County and the State of North Carolina to compensate Swain County for this loss by, among other obligations, constructing a new road, which would traverse the Great Smoky Mountains National Park.
- (3) The promised road has not been built. Early attempts to construct the road were abandoned by the National Park Service because of the expense involved and concerns about environmental impacts.
- (4) In 2007, the National Park Service concluded, after completing a full environmental impact statement of the road proposal, that construction of the road would have unacceptable impacts to the natural environment in the Great Smoky Mountains National Park. The National Park Service instead has endorsed an alternative proposal, also supported by Swain County, to negotiate a monetary settlement of the United States' unfulfilled obligations under its 1943 agreement with Swain County.

- 1 (5) The proposed monetary settlement of the 1943 agreement between
2 Swain County and the United States Department of Interior is an
3 unprecedented opportunity to provide for the future prosperity of the
4 people of Swain County.
- 5 (6) Appropriate fiscal management of this significant monetary settlement
6 requires authority and programs not currently provided by North
7 Carolina law.
- 8 (7) The Swain County Board of Commissioners has by resolution
9 announced its desire and intention that the proceeds of any monetary
10 settlement with the United States be managed for the long-term
11 prosperity of the people of Swain County.
- 12 (8) The Swain County Board of Commissioners has by resolution
13 announced its desire and intention that the proceeds of a monetary
14 settlement with the United States Department of Interior be preserved
15 and insulated from improvident expenditure.

16 **SECTION 2.** Fund Managed by State Treasurer. – G.S. 147-69.2(a) is
17 amended by adding a new subdivision to read:

18 "(19) The Swain County Settlement Trust Fund."

19 **SECTION 3.** Fund Provisions. – Article 6 of Chapter 147 of the General
20 Statutes is amended by adding a new section to read:

21 "**§ 147-69.6. Swain County Settlement Trust Fund.**

22 (a) The Swain County Settlement Trust Fund is established as a special fund in
23 the Office of the State Treasurer under the management of the Treasurer. The Fund shall
24 consist of the proceeds of any payments made by the United States in settlement of the
25 1943 agreement between Swain County and the United States Department of Interior,
26 such other contributions as Swain County or other entities may choose to make to the
27 Fund, and the interest and other investment income earned by the Fund. Contributions
28 to the Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County.

29 (b) On such schedule as the State Treasurer may determine, in consultation with
30 the Board of Commissioners of Swain County, the State Treasurer shall disburse to
31 Swain County amounts requested by the Swain County Board of Commissioners
32 pursuant to a majority vote of that body, provided that disbursements to Swain County
33 under this subsection in any fiscal year shall not exceed the total interest and investment
34 income earned by the Fund in that fiscal year. At the start of each fiscal year, the State
35 Treasurer shall issue a nonbinding opinion and recommendation to the Swain County
36 Board of Commissioners suggesting an appropriate amount of interest and investment
37 income to be reinvested in the Fund to ensure that the principal investment grows to
38 keep pace with inflation.

39 (c) No portion of the principal balance of the Fund may be disbursed to Swain
40 County absent a request by the Swain County Board of Commissioners accompanied by
41 a certification by the Swain County Board of Elections that two-thirds of the registered
42 voters of Swain County voted in favor of the disbursement and subsequent expenditure
43 of the amount requested in a referendum conducted under subsection (h) of this section.

1 (d) Funds disbursed to Swain County under subsections (b) or (c) of this section
2 shall be managed by the county in accordance with the requirements of the Local
3 Government Budget and Fiscal Control Act as amended from time to time.

4 (e) No part of the principal of the Swain County Settlement Trust Fund or of any
5 interest or other income earned on that principal may be paid to or received by any
6 agent or attorney on account of services rendered in connection with negotiating the
7 settlement agreement between Swain County and the United States Department of
8 Interior or obtaining the monetary settlement from the United States.

9 (f) The Board of Commissioners of Swain County may direct the Swain County
10 Board of Elections to conduct an advisory referendum on the question of whether any
11 portion of the principal of the Fund should be disbursed to and expended by the county
12 for a particular purpose. The election shall be held on a date jointly agreed upon by the
13 two boards, which may be the same day as any other referendum or election in the
14 county, but may not otherwise be during the period beginning 30 days before and
15 ending 30 days after the day of any other referendum or election to be conducted by the
16 board of elections and already validly called or scheduled by law. The election shall be
17 held in accordance with the procedures of G.S. 163-287. The question to be presented
18 on the ballot shall disclose the specific purpose proposed for expenditure of the
19 principal investment of the Trust Fund and the amount proposed for expenditure.

20 (g) The Swain County Settlement Trust Fund is subject to the oversight of the
21 State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.

22 (h) The Swain County Settlement Trust Fund and the income therefrom shall not
23 take the place of or be counted against any other State appropriations or program
24 providing funds or disbursements to Swain County."

25 **SECTION 4.** This act is effective when it becomes law.