

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 363
Health Care Committee Substitute Adopted 4/27/15
PROPOSED HOUSE COMMITTEE SUBSTITUTE S363-CSLMx-7 [v.9]
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Short Title: Wage & Hour/Local Gov't Assessments/Parks.

(Public)

Sponsors:

Referred to:

March 24, 2015

A BILL TO BE ENTITLED

1 AN ACT PROVIDING THAT EMPLOYEES OF SEASONAL AMUSEMENT OR
2 RECREATIONAL FACILITIES ARE EXEMPT FROM MINIMUM WAGE, OVERTIME,
3 AND RECORD KEEPING REQUIREMENTS OF THE NORTH CAROLINA WAGE AND
4 HOUR ACT, AUTHORIZING CITIES AND COUNTIES TO PROVIDE FOR THE
5 PAYMENT OF ALL OR A PORTION OF THE COST OF CRITICAL INFRASTRUCTURE
6 PROJECTS BY USING FUNDS FROM PRIVATE PARTIES AND REPAYING THE
7 FUNDS BY MAKING SPECIAL ASSESSMENTS ON BENEFITTED PROPERTY,
8 REMOVING CERTAIN PROPERTY FROM THE STATE NATURE AND HISTORIC
9 PRESERVE, AND AUTHORIZING THE DELETION OF VARIOUS PROPERTIES FROM
10 THE STATE PARKS SYSTEM.
11

12 The General Assembly of North Carolina enacts:

13 **SECTION 1.(a)** G.S. 95-25.14(b) reads as rewritten:

14 "(b) The provisions of G.S. 95-25.3 (Minimum Wage) and G.S. 95-25.4 (Overtime), and the
15 provisions of G.S. 95-25.15(b) (Record Keeping) as they relate to these exemptions, do not apply
16 to:

- 17 (1) Any employee of a boys' or girls' summer ~~camp, camp or of a seasonal religious~~
18 ~~or nonprofit educational conference center;~~
19 (1a) Any employee of a seasonal religious or nonprofit educational conference
20 center or a seasonal amusement or recreational establishment.
21 (2) Any person employed in the catching, processing or first sale of seafood, as
22 defined under the Fair Labor Standards ~~Act;~~Act.
23 (3) The spouse, child, or parent of the employer or any person qualifying as a
24 dependent of the employer under the income tax laws of North
25 ~~Carolina;~~Carolina.
26 (4) Any person employed in a bona fide executive, administrative, professional or
27 outside sales capacity, as defined under the Fair Labor Standards ~~Act;~~Act.
28 (5) Repealed by Session Laws 1989, c. 687, s. 2.
29 (6) Any person while participating in a ridesharing arrangement as defined in ~~G.S.~~
30 ~~136-44.21;~~G.S. 136044.21.
31 (7) Any person who is employed as a computer systems analyst, computer
32 programmer, software engineer, or other similarly skilled worker, as defined in
33 the Fair Labor Standards Act."

34 **SECTION 1.(b)** G.S. 95-25.3(e) reads as rewritten:



1 of use being made on the lot or parcel of land and provide for adjustments of assessments upon a
2 change in use, provided that the total amount of all assessments is sufficient to pay the portion
3 of the costs of the project to be funded from assessments after the adjustments have been made.

4 **"§ 153A-210.3. Petition required.**

5 (a) Petition. – The board of commissioners may not impose a special assessment under this
6 Article unless it receives a petition for the project to be financed by the assessment signed by (i) at
7 least a majority of the owners of real property to be assessed and (ii) owners who represent at least
8 sixty-six percent (66%) of the assessed value of all real property to be assessed. For purposes of
9 determining whether the petition has been signed by a majority of owners, an owner who holds
10 title to a parcel of real property alone shall be treated as having one vote each, and an owner who
11 shares title to a parcel of real property with one or more other owners shall have a vote equal to
12 one vote multiplied by a fraction, the numerator of which is one, and the denominator of which is
13 the total number of owners of the parcel. For purposes of determining whether the assessed value
14 represented by those signing the petition constitutes at least sixty-six percent (66%) of the
15 assessed value of all real property to be assessed, an owner who holds title to a parcel of real
16 property alone shall have the full assessed value of the parcel included in the calculation, and an
17 owner who shares title to a parcel of real property with one or more other owners shall have their
18 proportionate share of the full assessed value of the parcel included in the calculation. The petition
19 must include the following:

- 20 (1) A statement of the project proposed to be financed in whole or in part by the
- 21 imposition of an assessment under this Article.
- 22 (2) An estimate of the cost of the project.
- 23 (3) An estimate of the portion of the cost of the project to be assessed.

24 (a1) Preliminary Assessment Resolution. – Upon the receipt of a petition as provided for
25 under subsection (a) of this section, the board of commissioners shall adopt a preliminary
26 assessment resolution containing all of the following:

- 27 (1) A statement of intent to undertake the project.
- 28 (2) A general description of the nature and location of the project.
- 29 (3) A statement as to the proposed terms of payment of the assessment.
- 30 (4) An order setting a time and place for a public hearing on all matters covered by
31 the preliminary assessment resolution. The hearing shall be not earlier than
32 three weeks and not later than 10 weeks from the day on which the preliminary
33 resolution is adopted.

34 (a2) Hearing on Preliminary Assessment Resolution; Assessment Resolution. – At the public
35 hearing, the board of commissioners shall hear all interested persons who appear with respect to
36 any matter covered by the preliminary assessment resolution. Not earlier than 10 days after the
37 public hearing, the board may adopt a final assessment resolution directing that the project or
38 portions thereof be undertaken. The final assessment resolution shall include all of the information
39 provided for in subdivisions (1) through (3) of subsection (a1) of this section.

40 (b) Petition Withdrawn. – The board of commissioners must wait at least 10 days after the
41 public hearing on the preliminary assessment resolution before adopting a final assessment
42 resolution. A petition submitted under subsection (a) of this section may be withdrawn if notice of
43 petition withdrawal is given in writing to the board signed by at least a majority of the owners who
44 signed the petition submitted under subsection (a) of this section representing at least fifty percent
45 (50%) of the assessed value of all real property to be assessed. The board may not adopt a final
46 assessment resolution if it receives a timely notice of petition withdrawal.

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

51 **"§ 153A-210.4. ~~Financing~~ Funding a project for which an assessment is imposed.**

1 (a) ~~Financing~~ Funding Sources. – ~~A~~ In addition to funding from sources otherwise
2 authorized for use by a board of commissioners in connection with a project, a board of
3 commissioners may provide for the payment of all or a portion of the cost of a project for which
4 an assessment may be imposed under this Article from one or more of the ~~financing~~ funding
5 sources listed in this subsection. The assessment resolution must include the estimated cost of the
6 project to be funded from assessments and the amount of the cost estimated to be derived from
7 each respective ~~financing~~ funding source.

8 (1) Revenue bonds issued under G.S. 153A-210.6.

9 (2) Project development financing debt instruments issued under the North
10 Carolina Project Development Financing Act, Article 6 of Chapter 159 of the
11 General Statutes.

12 (3) General obligation bonds issued under the Local Government Bond Act, Article
13 4 of Chapter 159 of the General Statutes.

14 (4) General revenues.

15 (5) Funds from private parties.

16 (b) Assessments Pledged. – An assessment imposed under this Article may be pledged to
17 secure revenue bonds under G.S. 153A-210.6 or as additional security for a project development
18 financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is
19 pledged to secure financing, the board of commissioners must covenant to enforce the payment of
20 the assessments.

21 (c) Reimbursement from Assessments. – If a board of commissioners contracts with a
22 private party to construct a project on behalf of the county as provided in G.S. 153A-210.7, the
23 board of commissioners may agree to impose one or more assessments pursuant to this Article in
24 order to reimburse the private party for costs incurred by the private party related to the project,
25 including an inflationary factor applicable during any period of abeyance provided under
26 G.S. 153A-210.5. The board of commissioners shall not be obligated to reimburse a private party
27 any amount in excess of assessment revenues actually collected less the county's related
28 administrative costs.

29 **"§ 153A-210.5. Payment of assessments by installments.**

30 (a) An assessment imposed under this Article is payable in annual installments. The board
31 of commissioners must set the number of annual installments, which may not be more than 25.
32 The installments are due on the date that real property taxes are due.

33 (b) The board of commissioners may provide for the abeyance of assessments as
34 authorized in Article 9 of this Chapter. The abeyance may apply to any assessed property. Annual
35 installments shall be deferred until the period of abeyance ends. The assessment shall be payable
36 on the first annual installment payment date after the period of abeyance ends.

37 ...

38 **"§ 153A-210.7. Project implementation.**

39 A county may act directly, through one or more contracts with other public agencies, through
40 one or more contracts with private agencies, or by any combination thereof to implement the
41 project ~~financed~~ funded in whole or in part by the imposition of an assessment imposed under this
42 Article. Initial funding for the project may be provided by the public or private agencies. If no
43 more than twenty-five percent (25%) of the estimated cost of a project is to be funded from the
44 proceeds of general obligation bonds or general ~~revenue,~~ revenue, excluding assessments imposed
45 pursuant to this Article, a private agency that enters into a contract with a county for the
46 implementation of all or part of the project is subject to the provisions of Article 8 of Chapter 143
47 of the General Statutes only to the extent specified in the contract. In the event any contract
48 relating to construction a substantial portion of which is to be performed on publicly owned
49 property is excluded from the provisions of Article 8 of Chapter 143, the county or any trustee or
50 fiduciary responsible for disbursing funds shall obtain certification acceptable to the county in the
51 amount due for work done or materials supplied for which payment will be paid from such

1 disbursement. If the county or any trustee or fiduciary responsible for disbursing funds receives
2 notice of a claim from any person who would be entitled to a mechanic's or materialman's lien but
3 for the fact that the claim relates to work performed on or supplies provided to publicly owned
4 property, then either no disbursement of funds may be made until the county, trustee, or fiduciary
5 receives satisfactory proof of resolution of the claim or funds in the amount of the claim shall be
6 set aside for payment thereof upon resolution of the claim."

7 **SECTION 2.(b)** Article 10A of Chapter 160A of the General Statutes reads as
8 rewritten:

9 "Article 10A.

10 "Special Assessments for Critical Infrastructure Needs.

11 **"§ 160A-239.1. Purpose; sunset.**

12 (a) Purpose. – This Article enables cities that face increased demands for infrastructure
13 improvements as a result of rapid growth and development to ~~issue revenue bonds payable from~~
14 impose special assessments imposed— as provided under this Article on benefited
15 ~~property.~~ property, and to use the resulting revenues as provided in this Article. This Article
16 supplements the authority cities have in Article 10 of this Chapter. The provisions of Article 10 of
17 this Chapter apply to this Article, to the extent they do not conflict with this Article.

18 (b) Sunset. – This Article expires ~~July 1, 2020.~~ July 1, 2020, for projects that have not been
19 approved under a final assessment resolution. The expiration does not affect the validity of
20 assessments imposed or to be imposed or bonds issued or authorized or to be issued or authorized
21 under the provisions of this Article if a final assessment resolution has been adopted prior to the
22 effective date of the expiration.

23 **"§ 160A-239.2. Assessments.**

24 (a) Projects. – The council of a city may make special assessments as provided in this
25 Article against benefited property within the city for the purpose of ~~financing~~ assisting in
26 arranging for payment of the capital costs of projects (i) for which project development financing
27 debt instruments may be issued under G.S. 159-103 or (ii) for the purpose of ~~financing~~ the
28 installation of distributed generation renewable energy sources or energy efficiency improvements
29 that are permanently fixed to residential, commercial, industrial, or other real property.

30 (b) Costs. – The city council must determine a project's total estimated ~~cost.~~ cost and the
31 amount of costs to be paid from assessments. In addition to the costs allowed under ~~G.S.~~
32 ~~153A-193,~~ G.S. 160A-226, the costs may include any expenses allowed under ~~G.S.~~
33 ~~159-84.~~ G.S. 159-84 and expenses for the administration of the assessments. A preliminary
34 assessment roll may be prepared before the costs are incurred based on the estimated cost of the
35 project.

36 (c) Method. – The city council must establish an assessment method that ~~will most~~ will, in
37 the city council's judgment, accurately assess each lot or parcel of land subject to the assessments
38 according to the benefits conferred upon it by the project for which the assessment is made. In
39 addition to other bases upon which assessments may be made under G.S. 160A-218, the council
40 may select any other method designed to allocate the costs in accordance with benefits conferred.
41 In doing so, the council may provide that the benefits conferred are measured on the basis of use
42 being made on the lot or parcel of land and provide for adjustments of assessments upon a change
43 in use, provided that the total amount of all assessments is sufficient to pay the portion of the costs
44 of the project to be funded from assessments after the adjustments have been made.

45 **"§ 160A-239.3. Petition required.**

46 (a) Petition. – The city council may not impose a special assessment under this Article
47 unless it receives a petition for the project to be financed by the assessment signed by (i) at least a
48 majority of the owners of real property to be assessed and (ii) owners who represent at least
49 sixty-six percent (66%) of the assessed value of all real property to be assessed. For purposes of
50 determining whether the petition has been signed by a majority of owners, an owner who holds
51 title to a parcel of real property alone shall be treated as having one vote each, and an owner who

1 shares title to a parcel of real property with one or more other owners shall have a vote equal to
2 one vote multiplied by a fraction, the numerator of which is one, and the denominator of which is
3 the total number of owners of the parcel. For purposes of determining whether the assessed value
4 represented by those signing the petition constitutes at least sixty-six percent (66%) of the
5 assessed value of all real property to be assessed, an owner who holds title to a parcel of real
6 property alone shall have the full assessed value of the parcel included in the calculation, and an
7 owner who shares title to a parcel of real property with one or more other owners shall have their
8 proportionate share of the full assessed value of the parcel included in the calculation. The petition
9 must include the following:

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

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15 under subsection (a) of this section, the city council shall adopt a preliminary assessment
16 resolution containing all of the following:

17 (1) A statement of intent to undertake the project.

18 (2) A general description of the nature and location of the project.

19 (3) A statement as to the proposed terms of payment of the assessment.

20 (4) An order setting a time and place for a public hearing on all matters covered by
21 the preliminary assessment resolution. The hearing shall be not earlier than
22 three weeks and not later than 10 weeks from the day on which the preliminary
23 resolution is adopted.

24 (a2) Hearing on Preliminary Assessment Resolution; Assessment Resolution. – At the public
25 hearing, the city council shall hear all interested persons who appear with respect to any matter
26 covered by the preliminary assessment resolution. Not earlier than 10 days after the public
27 hearing, the city council may adopt a final assessment resolution directing that the project or
28 portions thereof be undertaken. The final assessment resolution shall include all of the information
29 provided for in subdivisions (1) through (3) of subsection (a1) of this section.

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

37 (c) Validity of Assessment. – No right of action or defense asserting the invalidity of an
38 assessment on grounds that the city did not comply with this section may be asserted except in an
39 action or proceeding begun within 90 days after publication of the notice of adoption of the
40 preliminary assessment resolution.

41 **"§ 160A-239.4. Financing Funding a project for which an assessment is imposed.**

42 (a) Financing Funding Sources. – ~~A~~ In addition to funding from sources otherwise
43 authorized for use by a city council in connection with a project, a city council may provide for the
44 payment of all or a portion of the cost of a project for which an assessment may be imposed under
45 this Article from one or more ~~financing~~ funding sources listed in this subsection. The assessment
46 resolution must include the estimated cost of the project to be funded from assessments and the
47 amount of the cost estimated to be derived from ~~the each~~ respective financing ~~financing~~ funding source.

48 (1) Revenue bonds issued under G.S. 160A-239.6.

49 (2) Project development financing debt instruments issued under the North
50 Carolina Project Development Financing Act, Article 6 of Chapter 159 of the
51 General Statutes.

- 1 (3) General obligation bonds issued under the Local Government Bond Act, Article
 2 4 of Chapter 159 of the General Statutes.
 3 (4) General revenues.
 4 (5) Funds from private parties.

5 (b) Assessments Pledged. – An assessment imposed under this Article may be pledged to
 6 secure revenue bonds under G.S. 160A-239.6 or as additional security for a project development
 7 financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is
 8 pledged to secure financing, the city council must covenant to enforce the payment of the
 9 assessments.

10 (c) Reimbursement from Assessments. – If a city council contracts with a private party to
 11 construct a project on behalf of the city as provided in G.S. 160A-239.7, the city council may
 12 agree to impose one or more assessments pursuant to this Article in order to reimburse the private
 13 party for costs incurred by the private party related to the project, including an inflationary factor
 14 applicable during any period of abeyance provided under G.S. 160A-239.5. The city council shall
 15 not be obligated to reimburse a private party any amount in excess of assessment revenues actually
 16 collected less the city's related administrative costs.

17 **"§ 160A-239.5. Payment of assessments by installments.**

18 (a) An assessment imposed under this Article is payable in annual installments. The city
 19 council must set the number of annual installments, which may not be more than 25. The
 20 installments are due on the date that real property taxes are due.

21 (b) The city council may provide for the abeyance of assessments as authorized in Article
 22 10 of this Chapter. The abeyance may apply to any assessed property. Annual installments shall be
 23 deferred until the period of abeyance ends. The assessment shall be payable on the first annual
 24 installment payment date after the period of abeyance ends.

25 ...

26 **"§ 160A-239.7. Project implementation.**

27 A city may act directly, through one or more contracts with other public agencies, through one
 28 or more contracts with private agencies, or by any combination thereof to implement the project
 29 ~~financed~~ funded in whole or in part by the imposition of an assessment imposed under this
 30 Article. Initial funding for the project may be provided by the public or private agencies. If no
 31 more than twenty-five percent (25%) of the estimated cost of a project is to be funded from the
 32 proceeds of general obligation bonds or general ~~revenue~~, revenue, excluding assessments imposed
 33 pursuant to this Article, a private agency that enters into a contract with a city for the
 34 implementation of all or part of the project is subject to the provisions of Article 8 of Chapter 143
 35 of the General Statutes only to the extent specified in the contract. In the event any contract
 36 relating to construction a substantial portion of which is to be performed on publicly owned
 37 property is excluded from the provisions of Article 8 of Chapter 143, the city or any trustee or
 38 fiduciary responsible for disbursing funds shall obtain certification acceptable to the city in the
 39 amount due for work done or materials supplied for which payment will be paid from such
 40 disbursement. If the city or any trustee or fiduciary responsible for disbursing funds receives
 41 notice of a claim from any person who would be entitled to a mechanic's or materialman's lien but
 42 for the fact that the claim relates to work performed on or supplies provided to publicly owned
 43 property, then either no disbursement of funds may be made until the city, trustee, or fiduciary
 44 receives satisfactory proof of resolution of the claim or funds in the amount of the claim shall be
 45 set aside for payment thereof upon resolution of the claim."

46 **SECTION 3.(a)** Article 25B of Chapter 143 of the General Statutes is amended by
 47 adding the following new sections to read:

48 **"§143-260.10H. Removal of land in Gorges State Park from the State Nature and Historic**
 49 **Preserve.**

50 (a) Notwithstanding the provisions of G.S. 143-260.10(23), the portion of that certain tract
 51 or parcel of property at Gorges State Park in Transylvania County, described in Deed Book 153,

1 Page 083, and containing approximately 4.2 acres as shown as Tract "A" in a survey by E. Roger
2 Raxter, Inc. entitled State of North Carolina and Blue Ridge Mountains RV Resort Property
3 Owners' Association, Inc. and dated March 20, 2016, is removed from the State Nature and
4 Historic Preserve.

5 (b) The property described in subsection (a) of this section is deleted from the State Parks
6 System pursuant to G.S. 143B-135.54.

7 (c) The State may only exchange this property for other property for the expansion of
8 Gorges State Park or sell this land and use the proceeds for that purpose. The State shall not
9 otherwise sell or exchange this land.

10 **"§ 143-260.10I. Removal of land in Jockey's Ridge State Park from the State Nature and**
11 **Historic Preserve.**

12 Notwithstanding the provisions of G.S. 143-260.10(15), the portion of that certain tract or
13 parcel of property at Jockey's Ridge State Park in Dare County, described in Deed Book 222, Page
14 732, and Deed Book 227, Page 501, and containing 0.6 acres as shown in a survey by Timmons
15 Group entitled Plat Showing a Proposed Dominion North Carolina Power Easement Across the
16 Properties of the State of North Carolina (Jockey's Ridge State Park) and dated December 18,
17 2014, is removed from the State Nature and Historic Preserve.

18 **"§ 143-260.10J. Mitchells Millpond State Natural Area from the State Nature and Historic**
19 **Preserve.**

20 (a) Notwithstanding the provisions of G.S. 143-260.10(26), the portion of that certain tract
21 or parcel of property at Mitchells Millpond State Natural Area in Wake County, described in Deed
22 Book 4186, Page 756, and containing 0.08 acres as shown in a survey by the North Carolina
23 Department of Transportation, Right-of-Way Branch, entitled State of North Carolina, Parcel 002,
24 and dated March 11, 2015, is removed from the State Nature and Historic Preserve.

25 (b) The property described in subsection (a) of this section is deleted from the State Parks
26 System pursuant to G.S. 143B-135.54.

27 (c) The State may only exchange this property for other property for the expansion of
28 Mitchells Millpond State Natural Area or sell this land and use the proceeds for that purpose. The
29 State shall not otherwise sell or exchange this land."

30 **SECTION 3.(b)** Pursuant to G.S. 143B-135.54, the General Assembly authorizes the
31 deletion of the following property from the State Parks System:

32 The portion of that certain tract or parcel of property at Hanging Rock State Park in Stokes
33 County, described in Deed Book 267, Page 159, and containing approximately 1.5 acres as shown
34 in a survey by C. E. Robertson & Associates, P.C. entitled Plat of Survey for North Carolina
35 Division of Parks and Recreation showing "Camp Sertoma Tracts," Sheet 7 of 7, and dated June
36 18, 2015, and revised April 6, 2016; and the portion shown as Deed Overlap in a survey by C. E.
37 Robertson and Associates PC entitled Plat of Survey for North Carolina Division of Parks and
38 Recreation showing "Camp Sertoma Tracts," Sheet 2 of 7, and dated June 18, 2015; and the
39 portion of that certain tract or parcel of property in Stokes County described in Deed Book 368,
40 Page 415, and containing approximately 1.058 acres shown as Deed Overlap in a survey by C. E.
41 Robertson and Associates PC entitled Plat of Survey for North Carolina Division of Parks and
42 Recreation showing "Camp Sertoma Tracts," Sheet 5 of 7, and dated June 18, 2015. The State may
43 only exchange this property for other property for the expansion of Hanging Rock State Park or
44 sell this land and use the proceeds for that purpose. The State shall not otherwise sell or exchange
45 this land.

46 **SECTION 4.** Section 2 of this act becomes effective June 30, 2016, and applies to
47 assessments made on or after that date. The remainder of this act is effective when it becomes
48 law.