

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 307

Short Title: Swain County Settlement Trust Fund. (Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to: Rules and Operations of the Senate

March 20, 2019

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE BOARD OF COMMISSIONERS OF SWAIN COUNTY TO  
MANAGE THE SWAIN COUNTY SETTLEMENT TRUST FUND AND TO  
WITHDRAW CERTAIN ASSETS FROM THE FUND.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 147-69.6 reads as rewritten:

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

(a) The Swain County Settlement Trust Fund is established as a special fund in the Office of the State Treasurer under the management of the ~~Treasurer~~ Board of Commissioners of Swain County. The Fund shall consist of the proceeds of any payments made by the United States in settlement of the 1943 agreement between Swain County and the United States Department of Interior, such other contributions as Swain County or other entities may choose to make to the Fund, and the interest and other investment income earned by the Fund. For the purposes of this section, the initial balance of the Fund shall be defined as fifty-two million dollars (\$52,000,000).

The Board of Commissioners of Swain County may invest the assets of the Fund in investment programs established by the State Treasurer for non-pension participants pursuant to subdivisions (b)(1) through (6) and subdivision (b)(8) of G.S. 147-69.2. Contributions to the Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County or, subject to subsection (i) of this section, to the Retirement Systems Division of the Department of State Treasurer.

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

(c) No portion of the principal initial balance of the Fund may be disbursed to withdrawn by the Board of Commissioners of Swain County absent a request by the Swain County Board of Commissioners accompanied by unless a certification is made by the Swain County Board of Elections that two-thirds of the registered voters of Swain County voted in favor of the disbursement withdrawal and subsequent expenditure of the amount requested in a referendum conducted under subsection (f) of this section.



1       (c1) Subject to subdivision (c) of this section and to any procedures or restrictions the  
2 investment programs in which the Fund invests, the Board of Commissioners of Swain County  
3 may withdraw assets from the Fund. Withdrawals from the Fund shall occur no more frequently  
4 than once per quarter, and the amount of a withdrawal shall not exceed the amount by which the  
5 current balance in the fund exceeds the initial balance.

6       (d) ~~Funds disbursed to withdrawn by the Board of Commissioners of Swain County under~~  
7 ~~subsections (b) or (c) of this section shall be managed by the county in accordance with the~~  
8 requirements of the Local Government Budget and Fiscal Control Act as amended from time to  
9 time.

10       (e) No part of the ~~principal~~ initial balance of the Swain County Settlement Trust Fund or  
11 of any interest or other income earned on that ~~principal~~ initial balance may be paid to or received  
12 by any agent or attorney on account of services rendered in connection with negotiating the  
13 settlement agreement between Swain County and the United States Department of Interior or  
14 obtaining the monetary settlement from the United States.

15       (f) The Board of Commissioners of Swain County may direct the Swain County Board  
16 of Elections to conduct an advisory referendum on the question of whether any portion of the  
17 ~~principal~~ initial balance of the Fund should be disbursed to and expended by the county for a  
18 particular purpose. The election shall be held in accordance with the procedures of  
19 G.S. 163A-1592. The question to be presented on the ballot shall disclose the specific purpose  
20 proposed for expenditure of the ~~principal investment~~ initial balance of the Trust Fund and the  
21 amount proposed for expenditure.

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

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

27       (i) Upon notification by the Board of Trustees of the Teachers' and State Employees'  
28 Retirement System or the Board of Trustees of the Local Governmental Employees' Retirement  
29 System to the State Treasurer and to the Board of Commissioners of Swain County as to the  
30 default on any contributions due to the retirement system of Swain County Schools, the State  
31 Treasurer shall intercept from any withdrawal of assets from the Fund by the Board of  
32 Commissioners of Swain County an amount equal to the sum of all payments due to the  
33 Retirement Systems Division of the Department of State Treasurer and shall transmit that amount  
34 to the Retirement Systems Division."

35       **SECTION 2.(a)** G.S. 147-69.6(a), as amended by Section 1 of this act, reads as  
36 rewritten:

37       "(a) The Swain County Settlement Trust Fund is established as a special fund in the Office  
38 of the State Treasurer under the management of the Board of Commissioners of Swain County.  
39 The Fund shall consist of the proceeds of any payments made by the United States in settlement  
40 of the 1943 agreement between Swain County and the United States Department of Interior, such  
41 other contributions as Swain County or other entities may choose to make to the Fund, and the  
42 interest and other investment income earned by the Fund. For the purposes of this section, the  
43 initial balance of the Fund shall be defined as fifty-two million dollars (\$52,000,000).

44       The Board of Commissioners of Swain County may invest the assets of the Fund in  
45 investment programs established by the State Treasurer for non-pension participants pursuant to  
46 subdivisions (b)(1) through (6) and subdivision (b)(8) of G.S. 147-69.2. Contributions to the  
47 Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County ~~or, subject to~~  
48 ~~subsection (i) of this section, to the Retirement Systems Division of the Department of State~~  
49 ~~Treasurer County."~~

50       **SECTION 2.(b)** G.S. 147-69.6(i), as enacted by Section 1 of this act, is repealed.

51       **SECTION 2.(c)** This section becomes effective July 1, 2024.

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**SECTION 3.** Except as otherwise provided, this act becomes effective July 1, 2019.