

Article 9A.

Special Assessments for Critical Infrastructure Needs.

§ 153A-210.1. (Article has an expiration date - see note) Purpose; sunset.

(a) Purpose. - This Article enables counties that face increased demands for infrastructure improvements as a result of rapid growth and development to issue revenue bonds payable from special assessments imposed under this Article on benefited property. This Article supplements the authority counties have in Article 9 of this Chapter. The provisions of Article 9 of this Chapter apply to this Article, to the extent they do not conflict with this Article.

(a1) Purpose of Dam Repair. - The General Assembly finds that dam repair is a public purpose promoting flood control and public safety.

(b) Sunset. - This Article expires July 1, 2015. For projects authorized in G.S. 153A-210.2(a1), this Article expires July 1, 2019. The expiration does not affect the validity of assessments imposed or bonds issued or authorized under the provisions of this Article prior to the effective date of the expiration. (2008-165, s. 2; 2013-371, ss. 1(a), 3; 2014-89, ss. 1, 2.)

§ 153A-210.2. (Article has an expiration date - see note) Assessments.

(a) Projects. - The board of commissioners of a county may make special assessments as provided in this Article against benefited property within the county for the purpose of financing the capital costs of projects for which project development financing debt instruments may be issued under G.S. 159-103 or for the purpose of financing the installation of distributed generation renewable energy sources or energy efficiency improvements that are permanently fixed to residential, commercial, industrial, or other real property.

(a1) Dam Repair Project. - The board of commissioners of a county may make special assessments as provided in this Article against property that is contiguous to a lake, and benefits from access to the same lake, for the purpose of repairing the dam of that lake. The provisions of this subsection only apply to a privately owned dam formerly used for textile mill purposes, forming a lake between 225 and 325 acres in area.

(b) Costs. - The board of commissioners must determine a project's total estimated cost. In addition to the costs allowed under G.S. 153A-193, the costs may include any expenses allowed under G.S. 159-84. A preliminary assessment roll may be prepared before the costs are incurred based on the estimated cost of the project.

(c) Method. - The board of commissioners must establish an assessment method that will most accurately assess each lot or parcel of land subject to the assessments according to the benefits conferred upon it by the project for which the assessment is made. In addition to other bases upon which assessments may be made under G.S. 153A-186, the board may select any other method designed to allocate the

costs in accordance with benefits conferred. In doing so, the board may provide that the benefits conferred are measured on the basis of use being made on the lot or parcel of land and provide for adjustments of assessments upon a change in use, provided that the total amount of all assessments is sufficient to pay the costs of the project after the adjustments have been made. (2008-165, s. 2; 2008-187, s. 47.5(a); 2009-525, s. 1(a); 2013-371, ss. 1(b), 3; 2014-89, s. 3.)

§ 153A-210.3. (Expires July 1, 2015) Petition required.

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

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

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

(c) Validity of Assessment. - No right of action or defense asserting the invalidity of an assessment on grounds that the county did not comply with this section may be asserted except in an action or proceeding begun within 90 days after

publication of the notice of adoption of the preliminary assessment resolution. (2008-165, s. 2; 2013-371, ss. 1(c), 3.)

§ 153A-210.4. (Expires July 1, 2015) Financing a project for which an assessment is imposed.

(a) Financing Sources. - A board of commissioners may provide for the payment of the cost of a project for which an assessment may be imposed under this Article from one or more of the financing sources listed in this subsection. The assessment resolution must include the estimated cost of the project and the amount of the cost to be derived from each respective financing source.

- (1) Revenue bonds issued under G.S. 153A-210.6.
- (2) Project development financing debt instruments issued under the North Carolina Project Development Financing Act, Article 6 of Chapter 159 of the General Statutes.
- (3) General obligation bonds issued under the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.
- (4) General revenues.

(b) Assessments Pledged. - An assessment imposed under this Article may be pledged to secure revenue bonds under G.S. 153A-210.6 or as additional security for a project development financing debt instrument under G.S. 159-111. If an assessment imposed under this Article is pledged to secure financing, the board of commissioners must covenant to enforce the payment of the assessments. (2008-165, s. 2; 2009-525, s. 1(b); 2013-371, s. 3.)

§ 153A-210.5. (Expires July 1, 2015) Payment of assessments by installments.

An assessment imposed under this Article is payable in annual installments. The board of commissioners must set the number of annual installments, which may not be more than 30. The installments are due on the date that property taxes are due. (2008-165, s. 2; 2013-371, s. 3.)

§ 153A-210.6. (Expires July 1, 2015) Revenue bonds.

(a) Authorization. - A board of commissioners that imposes an assessment under this Article may issue revenue bonds under Article 5 of Chapter 159 of the General Statutes to finance the project for which the assessment is imposed and use the proceeds of the assessment imposed as revenues pertaining to the project.

(b) Modifications. - This Article specifically modifies the authority of a county to issue revenue bonds under Article 5 of Chapter 159 of the General Statutes by extending the authority in that Article to include a project for which an assessment may be imposed under this Article. In applying the provisions of Article 5, the following definitions apply:

- (1) Revenue bond project. - Defined in G.S. 159-81(3). The term includes projects for which an assessment is imposed under this Article.
- (2) Revenues. - Defined in G.S. 159-81(4). The term includes assessments imposed under this Article to finance a project allowed under this Article. (2008-165, s. 2; 2013-371, s. 3.)

§ 153A-210.7. (Expires July 1, 2015) Project implementation.

A county may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof to implement the project financed in whole or in part by the imposition of an assessment imposed under this Article. If no more than twenty-five percent (25%) of the estimated cost of a project is to be funded from the proceeds of general obligation bonds or general revenue, a private agency that enters into a contract with a county for the implementation of all or part of the project is subject to the provisions of Article 8 of Chapter 143 of the General Statutes only to the extent specified in the contract. In the event any contract relating to construction a substantial portion of which is to be performed on publicly owned property is excluded from the provisions of Article 8 of Chapter 143, the county or any trustee or fiduciary responsible for disbursing funds shall obtain certification acceptable to the county in the amount due for work done or materials supplied for which payment will be paid from such disbursement. If the county or any trustee or fiduciary responsible for disbursing funds receives notice of a claim from any person who would be entitled to a mechanic's or materialman's lien but for the fact that the claim relates to work performed on or supplies provided to publicly owned property, then either no disbursement of funds may be made until the county, trustee, or fiduciary receives satisfactory proof of resolution of the claim or funds in the amount of the claim shall be set aside for payment thereof upon resolution of the claim. (2009-525, s. 1(c); 2013-371, s. 3.)