

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2021-73
SENATE BILL 323**

AN ACT TO AUTHORIZE MONEYS DEPOSITED IN CERTAIN DECOMMISSIONING FUNDS ESTABLISHED BY NORTH CAROLINA MUNICIPAL POWER AGENCY NUMBER 1 TO BE INVESTED THROUGH THE STATE TREASURER'S ANCILLARY GOVERNMENTAL PARTICIPANT INVESTMENT PROGRAM AND TO ADDRESS THE INVESTMENT OF FUNDS DEPOSITED IN THE SWAIN COUNTY SETTLEMENT TRUST FUND.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 159B-18 reads as rewritten:

"§ 159B-18. Trust funds; investment authority.

(a) Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this Chapter, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this Chapter. The resolution authorizing the bonds of any issue or the trust agreement securing such bonds may provide that any of such moneys may be temporarily invested and reinvested pending the disbursements thereof in such securities and other investments as shall be provided in such resolution or trust agreement, and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall hold and apply the same for the purposes hereof, subject to such regulation as this Chapter and such resolution or trust agreement may provide.

(b) Any moneys received pursuant to the authority of this Chapter and any other moneys available to a joint agency for investment may be invested:

...

(6) As provided in G.S. 147-69.2(b6), only with respect to funds deposited in the Catawba Unit No. 1 Decommissioning Trust Fund and the Catawba Unit No. 2 Decommissioning Trust Fund, each established pursuant to a Decommissioning Trust Agreement executed by North Carolina Municipal Power Agency Number 1 on June 28, 1990, in accordance with regulations promulgated by the Nuclear Regulatory Commission in Title 10, Chapter 1 of the Code of Federal Regulations, Part 50, as amended from time to time."

SECTION 1.(b) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...

(23) The Catawba Unit No. 1 Decommissioning Trust Fund and the Catawba Unit No. 2 Decommissioning Trust Fund established by North Carolina Municipal Power Agency Number 1, as described in G.S. 159B-18(b)(6).

...

(b6) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited in the Catawba Unit No. 1



Decommissioning Trust Fund and the Catawba Unit No. 2 Decommissioning Trust Fund in any of the investments authorized under subdivisions (b)(6c) and (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from the Funds made under subdivisions (b)(6c) and (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund and expenditures authorized under this section.

...."

SECTION 2.(a) G.S. 147-69.2, as amended by Section 1(b) of this act, is further amended by adding a new subsection to read:

"(b7) In addition to the investments authorized under subdivisions (b)(1) through (6) of this section, the State Treasurer may invest funds deposited in the Swain County Settlement Trust Fund in any of the investments authorized under subdivision (b)(8) of this section, notwithstanding the percentage limitations imposed on the Retirement Systems' investments therein. For investments from that Fund made under subdivision (b)(8) of this section, the State Treasurer may require a minimum deposit of up to one hundred thousand dollars (\$100,000) and may assess reasonable fees of up to 15 basis points per annum as a condition of making the investment. The fee may be used to defray the costs of administering the Fund and expenditures authorized under this section."

SECTION 2.(b) 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. The Treasurer may invest the assets of the Fund in any of the investments authorized under subdivisions (b)(1) through (6) and subdivision (b)(8) of G.S. 147-69.2. 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).

(a1) Contributions to the Fund are irrevocable. Assets in the Fund may be disbursed only to Swain County.

(b) 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 shall not be made from the initial balance of the Fund. Disbursements made pursuant to this subsection shall occur no more frequently than once per quarter.

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

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

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

(f) The Board of Commissioners of Swain County may direct the Swain County Board of Elections to conduct an advisory referendum on the question of whether any portion of the initial balance of the Fund should be disbursed to and expended by the county for a particular purpose. The election shall be held in accordance with the procedures of G.S. 163-287. The question to be presented on the ballot shall disclose the specific purpose proposed for expenditure of the initial balance of the Trust Fund and the amount proposed for expenditure.

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

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

SECTION 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 23rd day of June, 2021.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 12:01 p.m. this 2nd day of July, 2021