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SESSION 2019

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SENATE BILL DRS35131-MR-36

Short Title: Swain County Settlement Trust Fund.

(Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE BOARD OF COMMISSIONERS OF SWAIN COUNTY TO
3 MANAGE THE SWAIN COUNTY SETTLEMENT TRUST FUND AND TO
4 WITHDRAW CERTAIN ASSETS FROM THE FUND.

5 The General Assembly of North Carolina enacts:

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

7 "§ 147-69.6. Swain County Settlement Trust Fund.

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

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

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

30 (c) No portion of the ~~principal initial~~ balance of the Fund may be ~~disbursed to~~ withdrawn
31 by the Board of Commissioners of Swain County ~~absent a request by the Swain County Board~~
32 ~~of Commissioners accompanied by~~ unless a certification is made by the Swain County Board of
33 Elections that two-thirds of the registered voters of Swain County voted in favor of the
34 ~~disbursement~~ withdrawal and subsequent expenditure of the amount requested in a referendum
35 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.