



SENATE BILL 190: Expand Special Assessments for Dam Repair.

2019-2020 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 18, 2019
Introduced by:	Sen. McInnis	Prepared by:	Nicholas Giddings
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *Senate Bill 190 would authorize counties to impose a special assessment for dam repair if the dam meets certain conditions. The only known dam the conditions would apply to would be Woodlake dam in Moore County. The authority would expire July 1, 2022.*

[As introduced, this bill was identical to H281, as introduced by Reps. Boles, McNeill, which is currently in House Finance.]

CURRENT LAW: In 2008, the General Assembly gave counties and cities the opportunity to use special assessments on benefitted property as a financing tool for long-term capital projects. In 2014, the General Assembly allowed counties to use this authority to repair a privately-owned dam formerly used for textile mill purposes forming a lake between 225 and 325 acres in area.¹

A county or city may only impose special assessments if it receives a petition for the project to be financed through assessments that meets a two-prong test:

- The petition must be signed by a majority of the owners of the property assessed.
- And those owners must represent ownership of at least 66% of the assessed value of the property to be assessed.²

If the assessment is pledged to secure financing, the city or county must covenant to enforce the payment of assessments.³ Special assessments must be paid in annual installments over a period not to exceed 30 years.

The county board of commissioners or city must adopt a preliminary assessment resolution that describes the project, the proposed basis for making the assessment, and information concerning the cost of the work and the terms of payment of the assessment. The proposed basis for making the assessment method must accurately assess property according to the benefits conferred upon it by the project for which the assessment is made. The county or city must hold a public hearing on the matter, prepare a preliminary assessment roll, and publish a confirmation of the assessment roll once it is adopted. An owner of property

¹ The only known dam the conditions in the 2014 legislation apply to is in Richmond County.

² For example, if there are 21 owners involved and 10 hold 67% of the assessed value of the property to be assessed, at least one of the other 11 owners would have to sign the petition for the county or city to be able to impose the special assessments. Likewise, if 21 owners are involved and one owner owns 67% of the assessed value of the property, that one owner would have to be one of the signatures on the petition for the county or city to impose the special assessments.

³ Unpaid assessments bear interest at a rate fixed in the assessment resolution. A county or city may foreclose assessment liens under procedures provided by law for the foreclosure of property tax liens.

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against which an assessment is made may file a notice of appeal to the General Court of Justice if the owner is dissatisfied with the amount of the assessment.

BILL ANALYSIS: Senate Bill 190 would allow counties to make special assessments against property that is contiguous to a lake and benefits from access to the lake for the purpose of repairing the dam of that lake if the dam is privately-owned, formerly used for recreational and flood control, and forms a lake between 1,100 and 1,300 acres,⁴ provided the following conditions are met:

1. The board of county commissioners directs the county board of elections to conduct a referendum on the special assessment.⁵
2. The ballot question on the referendum must read:

"Special assessment for repairing a dam formerly used for recreational and flood control purposes and forming a lake between 1,100 and 1,300 acres."
3. A majority of those voting in the referendum approve the special assessment.
4. The board of county commissioners, by resolution, makes the special assessment.

EFFECTIVE DATE: This act would be effective when it becomes law and the authorization for the use of the assessment procedure for dam repair would expire on July 1, 2022.

⁴ Article V, Section 4 of the North Carolina Constitution requires that the General Assembly enact general laws relating to the contracting of debts by local government units. At this time, the only known dam the conditions of this bill would apply to would be Woodlake dam in Moore County.

⁵ The earliest a referendum could be held would be in March, 2020.