

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1389

Short Title: Finance Energy Improvement With Assessments. (Public)

Sponsors: Representatives Fisher, Harrison, Rapp (Primary Sponsors); Harrell, Luebke, and Martin.

Referred to: Energy and Energy Efficiency, if favorable, Finance.

April 13, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE ANY CITY TO DESIGNATE AN AREA WITHIN THE CITY
3 WITHIN WHICH DESIGNATED AREA CITY OFFICIALS AND FREE AND WILLING
4 PROPERTY OWNERS MAY ENTER INTO CONTRACTUAL ASSESSMENTS TO
5 FINANCE THE INSTALLATION OF DISTRIBUTED GENERATION RENEWABLE
6 ENERGY SOURCES OR ENERGY EFFICIENCY IMPROVEMENTS THAT ARE
7 PERMANENTLY AFFIXED TO REAL PROPERTY.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Chapter 160A of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 10B.

12 "Contractual Assessments for Renewable Energy and Energy Efficiency Improvements to Real
13 Property.

14 "**§ 160A-239.10. Intent; scope of Article.**

15 (a) It is the intent of the General Assembly that this Article should be used to finance
16 the installation of distributed generation renewable energy sources or energy efficiency
17 improvements that are permanently fixed to residential, commercial, industrial, or other real
18 property.

19 (b) This Article shall not be used to finance the purchase or installation of appliances
20 that are not permanently fixed to residential, commercial, industrial, or other real property.
21 Assessments may be levied pursuant to this Article only with the free and willing consent of the
22 owner of each lot or parcel on which an assessment is levied at the time the assessment is
23 levied.

24 "**§ 160A-239.11. Findings.**

25 (a) The Legislature finds all of the following:

26 (1) Energy conservation efforts, including the promotion of energy efficiency
27 improvements to residential, commercial, industrial, or other real property
28 are necessary to address the issues of green jobs creation, energy
29 independence, and global climate change.

30 (2) The up-front cost of making residential, commercial, industrial, or other real
31 property more energy efficient prevents many property owners from making
32 those improvements. To make those improvements more affordable and to
33 promote the installation of those improvements, it is necessary to authorize
34 an alternative procedure for authorizing assessments to finance the cost of
35 energy efficiency improvements.



1 (b) The General Assembly declares that a public purpose will be served by a contractual
2 assessment program that provides the governing body of any city with the authority to finance
3 the installation of distributed generation renewable energy sources and energy efficiency
4 improvements that are permanently fixed to residential, commercial, industrial, or other real
5 property.

6 **"§ 160A-239.12. Designation of area within city.**

7 (a) The governing body of any city may determine that it would be convenient,
8 advantageous, and in the public interest to designate an area within the city, which may
9 encompass the entire city or a lesser portion, within which authorized city officials and
10 property owners may enter into contractual assessments to finance the installation of distributed
11 generation renewable energy sources or energy efficiency improvements that are permanently
12 fixed to real property pursuant to this Article.

13 (b) The governing body shall make the determination under subsection (a) of this
14 section by adopting a resolution indicating its intention to do so. The resolution of intention
15 shall include a statement that the city proposes to make contractual assessment financing
16 available to property owners, shall identify the kinds of distributed generation renewable
17 energy sources or energy efficiency improvements that may be financed, shall describe the
18 boundaries of the area within which contractual assessments may be entered into, and shall
19 briefly describe the proposed arrangements for financing the program. The resolution of
20 intention shall state that it is in the public interest to finance the installation of distributed
21 generation renewable energy sources or energy efficiency improvements, or both, under
22 subsection (a) of this section. The resolution shall state that a public hearing should be held at
23 which interested persons may object to or inquire about the proposed program or any of its
24 particulars and shall state the time and place of the hearing. The resolution shall direct an
25 appropriate city official to prepare a report pursuant to G.S. 160A-239.14 and to enter into
26 consultations with the office of the county finance officer in order to reach agreement on what
27 additional fees, if any, will be charged to the city or county for incorporating the proposed
28 contractual assessments into the assessments of the general taxes of the city or county on real
29 property.

30 **"§ 160A-239.13. City official may authorize owner to purchase renewable energy and**
31 **energy efficiency improvements.**

32 Notwithstanding any other provision of this Article, upon the written consent of an
33 authorized city official, the proposed arrangements for financing the program for the
34 installation of distributed generation renewable energy sources or energy efficiency
35 improvements that are permanently fixed to real property may authorize the property owner to
36 purchase directly the related equipment and materials for the installation of distributed
37 generation renewable energy sources or energy efficiency improvements and to contract
38 directly for the installation of distributed generation renewable energy sources or energy
39 efficiency improvements that are permanently fixed to the property owner's residential,
40 commercial, industrial, or other real property.

41 **"§ 160A-239.14. Assessment report prepared by city official.**

42 The report required under G.S. 160A-239.12 shall contain all of the following:

- 43 (1) A map showing the boundaries of the territory within which contractual
44 assessments are proposed to be offered.
- 45 (2) A draft contract specifying the terms and conditions that would be agreed to
46 by a property owner within the contractual assessment area and the city.
- 47 (3) A statement of city policies concerning contractual assessments including all
48 of the following:
 - 49 a. Identification of the types of distributed generation renewable energy
50 sources or energy efficiency improvements that may be financed
51 through the use of contractual assessments.

- 1 b. Identification of a city official authorized to enter into contractual
2 assessments on behalf of the city.
3 c. A maximum aggregate dollar amount of the contractual assessments.
4 d. A method for setting requests from property owners for financing
5 through contractual assessments in priority order in the event that
6 requests appear likely to exceed the authorized maximum aggregate
7 dollar amount of the contractual assessments.

8 (4) A plan for raising a capital amount required to pay for work performed
9 pursuant to contractual assessments. The plan may include amounts to be
10 advanced by the city through funds available to it from any source. The plan
11 may include the sale of bonds under G.S. 160A-516 or other financing
12 relationship pursuant to G.S. 160A-239.17. The plan shall include a
13 statement of or method for determining the interest rate and time period
14 during which contracting property owners would pay any assessment. The
15 plan shall provide for any reserve funds. The plan shall provide for the
16 apportionment of all or any portion of the costs incidental to financing,
17 administration, and collection of the contractual assessment program among
18 the consenting property owners and the city.

19 (5) A report on the results of the consultations with the office of the county
20 finance officer concerning the additional fees, if any, that will be charged to
21 the city or county for incorporating the proposed contractual assessments
22 into the assessments of the general taxes of the city or county on real
23 property, and a plan for financing the payment of those fees.

24 **"§ 160A-239.15. Notice of public hearing.**

25 A notice of the hearing required under G.S. 160A-239.12 shall be published in a newspaper
26 having general circulation in the city in which an area is being proposed for a designation under
27 G.S. 160A-239.12 in the same manner provided by Rule 4(j1) of the Rules of Civil Procedure,
28 Chapter 1A of the General Statutes, for the service of a summons on a party that cannot
29 otherwise be served. The first publication shall occur not later than 20 days before the date of
30 the hearing.

31 **"§ 160A-239.16. Public hearing.**

32 At the time of the public hearing on the proposed program, the report under
33 G.S. 160A-239.14 shall be summarized, and the governing board of the city shall afford all
34 persons who are present an opportunity to comment upon, object to, or present evidence with
35 regard to the proposed contractual assessment program, the extent of the area proposed to be
36 included within the program, the terms and conditions of the draft contract, or the proposed
37 financing provisions. At the conclusion of the hearing, the governing board of the city may
38 adopt a resolution confirming the report or may direct its modification in any respect, and
39 thereafter may adopt a resolution confirming the report as modified, or the governing board of
40 the city may abandon the proceedings. The governing board of the city shall not increase the
41 area within which contractual assessments would be offered without providing notice of the
42 proposed increase in area pursuant to G.S. 160A-239.15. The hearing may be continued from
43 time to time not exceeding a total of 180 days.

44 **"§ 160A-239.17. Financing of renewable energy and energy efficiency improvements to**
45 **real property.**

46 A city may issue bonds pursuant to this Article, the principal and interest for which would
47 be repaid by contractual assessments. A city may advance its own funds to finance work to be
48 repaid through contractual assessments, and may from time to time sell bonds to reimburse
49 itself for such advances. A city may enter into a relationship with an underwriter or financial
50 institution that would allow the sequential issuance of a series of bonds, each bond being issued
51 as the need arose to finance work to be repaid through contractual assessments. The interest

1 rate of each bond may be determined by an appropriate index, but shall be fixed at the time
2 each bond is issued. Bond proceeds may be used to establish a reserve fund, and to pay for
3 expenses incidental to the issuance and sale of the bonds. Article 10A of this Chapter shall
4 apply to any bonds issued pursuant to this Article, insofar as that Article is not in conflict with
5 this Article.

6 **"§ 160A-239.18. Levy of contractual assessments for renewable energy and energy**
7 **efficiency improvements to real property.**

8 Assessments levied pursuant to this Article, and the interest and any penalties thereon, shall
9 constitute a lien against the lots and parcels of land on which they are made, until they are paid.
10 Article 10A of this Chapter applies to the levy and collection of assessments levied pursuant to
11 this Article, insofar as those provisions are not in conflict with the provisions of this Article,
12 including, but not limited to, the collection of assessments in the same manner and at the same
13 time as the general taxes of the city on real property are payable and any penalties and remedies
14 and lien priorities in the event of delinquency and default.

15 **"§ 160A-239.19. Recording of contractual assessments for renewable energy and energy**
16 **efficiency improvements to real property.**

17 The governing board of the city shall direct its clerk to record a notice of the existence and
18 amount of each contractual assessment with the register of deeds of the county in which the lot
19 or parcel is located. The register of deeds shall accept those filings and may charge the clerk a
20 fee for recording those documents pursuant to G.S. 161-10. The failure of the clerk or register
21 of deeds to perform the filings shall not subject the local agency or any of its officers or
22 employees to civil liability."

23 **SECTION 2.** This act becomes effective July 1, 2009.