

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 1083
State and Local Government Committee Substitute Adopted 5/5/09

Short Title: Little Tennessee River Basin Advisory Comm. (Public)

Sponsors:

Referred to:

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE LITTLE TENNESSEE RIVER BASIN ADVISORY
3 COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The title of Article 8 of Chapter 77 of the General Statutes reads as
6 rewritten:

7 "Article 8.

8 "River Basins Advisory Commissions.

9 "Part 1. North Carolina/South Carolina River Basin Advisory Commissions."

10 **SECTION 2.** G.S. 77-110 reads as rewritten:

11 **"§ 77-110. Definitions.**

12 The following definitions apply in this ~~Article~~Part:

13"

14 **SECTION 3.** G.S. 77-111 reads as rewritten:

15 **"§ 77-111. Commissions established; purposes.**

16 There is established the Catawba/Wateree River Basin Advisory Commission and the
17 Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be constituted as
18 described in this ~~Article~~Part and there shall be a separate commission for each river basin. The
19 commissions shall be permanent bodies composed of members from the State of North
20 Carolina and the State of South Carolina. The purpose of each commission shall be to:

21"

22 **SECTION 4.** G.S. 77-118 reads as rewritten:

23 **"§ 77-118. Termination.**

24 The General Assembly of North Carolina may terminate the commissions by repealing this
25 ~~Article~~Part. The commissions shall terminate if the General Assembly of South Carolina
26 repeals the provisions of the South Carolina Code of Laws that are comparable to this
27 ~~Article~~Part."

28 **SECTION 5.** Article 8 of Chapter 77 of the General Statutes is amended by adding
29 a new Part to read:

30 "Part 2. North Carolina/Tennessee/Georgia River Basin Advisory Commission.

31 **"§ 77-120. Definitions.**

32 The following definitions apply in this Part:

33 (1) "Commission" means the Little Tennessee River Basin Advisory
34 Commission.

35 (2) "River basin" or "river basins" means that land area designated as the Little
36 Tennessee River Basin by the North Carolina Department of Environment
37 and Natural Resources pursuant to G.S. 143-215.22G, the Georgia



1 Department of Natural Resources, and the Tennessee Department of
2 Environment and Conservation.

3 **"§ 77-121. Commission established; purposes.**

4 There is established the Little Tennessee River Basin Advisory Commission. The
5 commission shall be constituted as described in this Part. The commission shall be a permanent
6 body composed of members from the State of North Carolina, the State of Tennessee, and the
7 State of Georgia. The purpose of the commission shall be to:

- 8 (1) Provide guidance and make recommendations to local, state, and federal
9 legislative and administrative bodies, and to others as it considers necessary
10 and appropriate, for the use, stewardship, and enhancement of the water and
11 other natural resources for all citizens within the river basin.
- 12 (2) Provide a forum for discussion of issues affecting the river basin's water
13 quantity and water quality and issues affecting other natural resources.
- 14 (3) Promote communication, coordination, and education among stakeholders
15 within the river basin.
- 16 (4) Identify problems and recommend appropriate solutions.
- 17 (5) Undertake studies related to water quantity, water quality, and other natural
18 resources in the river basin based on existing data available from agencies
19 located in any of the member states and provide for the distribution and
20 dissemination of information garnered from those studies.
- 21 (6) Determine the optimum approach to comprehensively and collaboratively
22 provide recommendations for integrated river management, including, but
23 not limited to, the total assimilative capacity of the river basin.

24 **"§77-122. Powers and duties.**

25 (a) The authority granted to the commission shall be advisory in nature and in no way
26 shall the commission be construed to have any regulatory authority.

27 (b) The commission shall not have any authority to obligate or otherwise bind the State
28 of North Carolina, the State of Tennessee, the State of Georgia, or any agency or subdivision of
29 any of the member states.

30 (c) To achieve its purposes, the commission shall have all of the following powers and
31 duties:

- 32 (1) To develop rules and procedures for the conduct of its business or as may be
33 necessary to perform its duties and carry out its objectives, including, but not
34 limited to, calling meetings and establishing voting procedures. Rules and
35 procedures developed pursuant to this subdivision shall be effective upon an
36 affirmative vote by a majority of the commission members.
- 37 (2) To establish standing and ad hoc committees, which shall be constituted in a
38 manner to ensure a balance between recognized interests and states. The
39 commission shall determine the purpose of each standing or ad hoc
40 committee.
- 41 (3) To seek, apply for, accept, and expend gifts, grants, donations, services, and
42 other aid from public or private sources. The commission may accept or
43 expend funds only after an affirmative vote by a majority of the members of
44 the commission.
- 45 (4) To exercise the powers of a body corporate, including the power to sue and
46 be sued, and adopt and use a common seal and alter the same.
- 47 (5) To establish a nonprofit corporation to assist in administration and in
48 fund-raising.
- 49 (6) To enter into contracts and execute all instruments necessary or appropriate
50 to achieve the purposes of the commission.
- 51 (7) To designate a fiscal agent.

1 (8) To perform any lawful acts necessary or appropriate to achieve the purposes
2 of the commission.

3 **"§ 77-123. Membership; terms of office; eligibility for appointment; meetings.**

4 (a) The Little Tennessee River Basin Advisory Commission shall be composed of 26
5 members as follows:

6 (1) One member of the North Carolina House of Representatives whose district
7 includes a part of the North Carolina portion of the river basin, to be
8 appointed by the Speaker of the North Carolina House of Representatives.

9 (2) One member of the North Carolina Senate whose district includes a part of
10 the North Carolina portion of the river basin, to be appointed by the
11 President Pro Tempore of the North Carolina Senate.

12 (3) One member of the Tennessee House of Representatives whose district
13 includes a part of the Tennessee portion of the river basin, to be appointed
14 by the Speaker of the Tennessee House of Representatives.

15 (4) One member of the Tennessee Senate whose district includes a part of the
16 Tennessee portion of the river basin, to be appointed by the Speaker of the
17 Tennessee Senate.

18 (5) One member of the Georgia House of Representatives whose district
19 includes a part of the Georgia portion of the river basin, to be appointed by
20 the Speaker of the Georgia House of Representatives.

21 (6) One member of the Georgia Senate whose district includes a part of the
22 Georgia portion of the river basin, to be appointed by the President Pro
23 Tempore of the Georgia Senate.

24 (7) One person, to be appointed by the respective board of county
25 commissioners, from each of the following four counties in the State of
26 North Carolina:

27 a. Graham County.

28 b. Jackson County.

29 c. Macon County.

30 d. Swain County.

31 (8) One person, to be appointed by the respective county commission, from each
32 of the following three counties in the State of Tennessee:

33 a. Blount County.

34 b. Loudon County.

35 c. Monroe County.

36 (9) One person, to be appointed by the Rabun County Commission, from Rabun
37 County Georgia.

38 (10) Two members of the Eastern Band of the Cherokee Indians, to be appointed
39 by the Tribal Government.

40 (11) One person from the Tennessee Valley Authority, to be appointed by the
41 Board of Directors of the Tennessee Valley Authority.

42 (12) One person from North Carolina representing a water or sewer municipal
43 utility, appointed by the Governor of North Carolina.

44 (13) One person from Tennessee representing a water or sewer municipal utility,
45 appointed by the Governor of Tennessee.

46 (14) One person from Georgia representing a water or sewer municipal utility,
47 appointed by the Governor of Georgia.

48 (15) One person from North Carolina representing the agricultural community,
49 appointed by the Governor of North Carolina.

50 (16) One person from Tennessee representing the agricultural community,
51 appointed by the Governor of Tennessee.

- 1 (17) One person from Georgia representing the agricultural community,
2 appointed by the Governor of Georgia.
- 3 (18) One person from a nonprofit basin interest group that operates within the
4 North Carolina portion of the basin, appointed by the Governor of North
5 Carolina.
- 6 (19) One person from a nonprofit basin interest group that operates within the
7 Tennessee portion of the basin, appointed by the Governor of Tennessee.
- 8 (20) One person from a nonprofit basin interest group that operates within the
9 Georgia portion of the basin, appointed by the Governor of Georgia.

10 (b) Each member appointed to the commission pursuant to subdivisions (1) and (2) of
11 subsection (a) of this section shall serve at the pleasure of the appointing authority so long as
12 the member remains a representative or senator. Each member appointed to the commission
13 pursuant to subdivisions (3) and (4) of subsection (a) of this section shall serve as provided by
14 the Tennessee General Assembly. Each member appointed to the commission pursuant to
15 subdivisions (5) and (6) of subsection (a) of this section shall serve as provided by the Georgia
16 General Assembly. Each member appointed to the commission pursuant to subdivision (11) of
17 subsection (a) of this section shall serve for so long as the member continues in the qualifying
18 position or, if the member is a designee, at the pleasure of the designating authority. Each
19 member appointed to the commission pursuant to subdivision (7) of subsection (a) of this
20 section shall serve a term of two years and may be reappointed to serve no more than three
21 consecutive full terms or 84 consecutive months, whichever is greater. Each member appointed
22 to the commission pursuant to subdivisions (12), (15), and (18) of subsection (a) of this section
23 shall serve a term of two years and may be reappointed to serve no more than three consecutive
24 full terms or 84 consecutive months, whichever is greater. The term of a member who is
25 appointed to the commission pursuant to subdivision (8), (13), (16), or (19) of subsection (a) of
26 this section shall serve as provided by the Tennessee General Assembly. The term of a member
27 who is appointed to the commission pursuant to subdivision (9), (14), (17), or (20) of
28 subsection (a) of this section shall serve as provided by the Georgia General Assembly. The
29 term of a member who is appointed to the commission pursuant to subdivision (10) of
30 subsection (a) of this section shall serve as provided by the Tribal Government of the Eastern
31 Band of the Cherokee Indians. An appointment to fill a vacancy on the commission shall be for
32 the unexpired portion of the term. A vacancy on the commission shall be filled in the same
33 manner as the original appointment. Members of the commission who are appointed from or
34 reside in North Carolina may be removed by the Governor of North Carolina for misfeasance,
35 malfeasance, or nonfeasance, as provided in G.S. 143B-13.

36 (c) The legislative members of the commission may appoint additional members to the
37 commission to serve as advisory members as the legislative members consider necessary.

38 (d) The members of the commission shall elect a chair, vice-chair, and any other
39 officers they consider necessary and shall determine the length of the term of office, not to
40 exceed two years, of each officer. The chair and the vice-chair shall not be from the same state,
41 and the chair shall be rotated among the States of North Carolina, Tennessee, and Georgia.

42 (e) The commission shall meet upon the call of the chair. A majority of the commission
43 shall constitute a quorum for the transaction of business.

44 (f) The legislative members of the commission from each state may meet separately to
45 discuss river basin-related issues affecting their state and may report their findings
46 independently of the commission.

47 **"§ 77-124. Standing and advisory committees.**

48 The commission may establish standing or advisory committees to facilitate communication
49 among stakeholders in the basin and to maximize participation among all interested parties. The
50 commission may appoint members to standing or advisory committees in accordance with
51 guidelines adopted by the commission.

"§ 77-125. Staffing; meeting facilities; assistance by agencies.

(a) The North Carolina Department of Environment and Natural Resources, the Tennessee Department of Environment and Conservation, and the Georgia Department of Natural Resources shall provide staff support and facilities to the commission within the existing programs of the respective agencies. Additional staff may be hired or contracted by the commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the commission, within available resources.

(b) All agencies of the State of North Carolina, the State of Tennessee, and the State of Georgia shall cooperate with the commission and, upon request, shall assist the commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources, the Commissioner of the Tennessee Department of Environment and Conservation, and the Commissioner of the Georgia Department of Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the commission.

(c) The commission may obtain information and data upon request from all state officers, agents, agencies, and departments of the State of North Carolina, the State of Tennessee, and the State of Georgia while in discharge of their duties.

"§ 77-126. Funding.

(a) The commission shall annually adopt a budget that shall include the estimated income and expenses of the commission. Funding for the commission shall be shared and apportioned among the State of North Carolina, the State of Tennessee, and the State of Georgia as each state may provide through its regular appropriations process.

(b) The accounts and records of the commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the Auditor of North Carolina, the Tennessee Director of State Audit, and the Georgia State Auditor prescribe. The accounts and records of the commission shall be subject to an annual audit by the Auditor of North Carolina, the Tennessee Director of State Audit, and the Georgia State Auditor or their legal representatives. The cost of the annual audits shall be borne by the commission. The results of the audits shall be delivered to the Joint Legislative Commission on Governmental Operations of the General Assembly of North Carolina, the Tennessee General Assembly as the Tennessee General Assembly shall provide, and to the Georgia General Assembly as the Georgia General Assembly shall provide.

"§ 77-127. Compensation and expenses of commission members.

(a) Members of the commission who are appointed from or reside in North Carolina shall receive no salary for their service on the commission but may be paid, within available resources, per diem, subsistence, and travel expenses as follows:

(1) Members of the commission who are members of the General Assembly at the rate established in G.S. 120-3.1.

(2) Members of the commission who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.

(3) All other members of the commission at the rate established in G.S. 138-5.

(b) Members of the commission who are appointed from or reside in Tennessee shall be compensated as provided by the Tennessee General Assembly.

(c) Members of the commission who are appointed from or reside in Georgia shall be compensated as provided by the Georgia General Assembly.

(d) All expenses shall be paid from funds appropriated or otherwise available to the commission.

"§ 77-128. Annual report.

The commission shall submit an annual report, including any recommendations, on or before October 1 of each year to the Governor of North Carolina and the Environmental Review Commission of the General Assembly of North Carolina; the Governor of Tennessee and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or

1 the Commissioner of the Tennessee Department of Environment and Conservation shall
2 provide; and to the Governor of Georgia and the Georgia General Assembly, as the Governor,
3 the General Assembly of Georgia, or the Commissioner of the Georgia Department of Natural
4 Resources shall provide.

5 **"§ 77-129. Termination.**

6 The General Assembly of North Carolina may terminate the commission by repealing this
7 Part. The commission shall terminate if the Tennessee General Assembly and the Georgia
8 General Assembly both repeal the provisions of the Tennessee Annotated Code and the Official
9 Code of Georgia Annotated that are comparable to this Part."

10 **SECTION 6.** The Little Tennessee River Basin Advisory Commission shall submit
11 the first report pursuant to G.S. 77-128, as enacted by Section 5 of this act, on or before
12 October 1, 2011.

13 **SECTION 7.** This act shall not be construed to obligate the General Assembly of
14 North Carolina, the Tennessee General Assembly, or the Georgia General Assembly to
15 appropriate any funds to implement the provisions of this act.

16 **SECTION 8.** This act is effective when it becomes law.