

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 777
Committee Substitute Favorable 6/26/97
Committee Substitute #2 Favorable 7/3/97

Short Title: Kings Mt. Annexation/Moss Lake Use.

(Local)

Sponsors:

Referred to:

April 3, 1997

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE CITY OF KINGS MOUNTAIN TO ANNEX
2 CERTAIN NONCONTIGUOUS PROPERTY, PROHIBITING THE CITY FROM
3 RESTRICTING RECREATIONAL USES OF MOSS LAKE, AND REQUIRING
4 THE CITY TO CREATE AN AUTHORITY TO ADDRESS ISSUES RELATED TO
5 MOSS LAKE.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. Notwithstanding the provisions of G.S. 160A-58.7 and G.S. 160A-
9 58.1(b), the City of Kings Mountain may annex under Part 4 of Article 4A of Chapter
10 160A of the General Statutes the property on which the John Henry Moss Water
11 Treatment Plant and Moss Lake Dam are situated.

12 Section 2. The boundaries of any area annexed under this act shall not be
13 considered the primary corporate limits of the City for the purpose of Part 4 of Article 4A
14 of Chapter 160A of the General Statutes and shall not be considered the boundary of the
15 municipality for the purpose of Part 1, 2, or 3 of that Article, even if the area becomes
16 contiguous due to annexation of the intervening property.

1 Section 3. Except as provided in Chapter 166A of the General Statutes, neither
2 the Moss Lake Authority nor the City of Kings Mountain may restrict recreational uses of
3 Moss Lake that are allowed on June 1, 1997. Except as provided by Chapter 166A of the
4 General Statutes or any safety ordinances, homeowners who are current on any fees or
5 assessments shall have unlimited access to the waterfront.

6 Homeowners may make improvements on the control strip that both enhance
7 recreational use of the lake and do not violate any city ordinance in effect on June 1,
8 1997.

9 Section 4. (a) The Moss Lake Authority may charge owners of property situated on
10 the waterfront of Moss Lake a user fee for the use of the eight-foot control strip of
11 property around the lake and for recreational use of the lake. However, the fee may not
12 exceed the amount determined by the audit under Section 6 of this act to cover expenses
13 that primarily and directly benefit the property owners. This is to be a pro rata share of
14 all items determined by the audit under Section 6 of this act as recreation expense
15 impacted by waterfront homeowners usage, nonwaterfront lake homeowners who use the
16 lake for recreational purposes, and nonwaterfront recreational users. Any fees collected
17 by the Authority shall be deposited in the city fund created under Section 4(d) of this act.

18 (b) Notwithstanding subsection (a) of this section, the fees authorized by
19 subsection (a) of this section may not be used for expenses relating to:

- 20 (1) Public swimming areas and buildings utilized for public swimming and
21 concessions for public swimming; or
- 22 (2) Water treatment and reservoir functions.

23 These items are the responsibility of the City of Kings Mountain.

24 (c) In any case where expenses are to be prorated, the amount to be charged
25 to user fees shall be determined by the Moss Lake Authority subject to change based on
26 the audit findings as provided by Section 6 of this act.

27 (d) When establishing a fee schedule as authorized by this section, the
28 component of the fee relating to lot ownership shall provide for an equal fee per lot for all
29 developed lots.

30 (e) The City shall establish and maintain a separate fund for all user fees
31 collected from Moss Lake property owners and nonresident fees for use of recreation
32 facilities at Moss Lake. The expenditure of these fees is limited to operation of Moss
33 Lake and cannot be transferred to any other fund of the City.

34 Section 5. There is established the Moss Lake Authority which shall consist
35 of two members of the Kings Mountain City Council appointed by that Council, one
36 member of the Cleveland County Board of Commissioners appointed by that Board, and
37 two members of the Moss Lake Property Owners' Association appointed by that
38 Association. Members shall serve for a term of three years, except that the city clerk of
39 the City of Kings Mountain shall randomly designate two of the initial members to serve
40 initial two-year terms and one of the initial members to serve an initial one-year term.
41 The Authority shall be responsible for addressing issues related to user fees, lake patrol,
42 and the operation, maintenance, and improvement of the Lake related to recreation only.

1 The Authority shall report on these issues to the Kings Mountain City Council and shall
2 have the power provided by this act to implement its recommendations.

3 Section 6. (a) Prior to August 30, 1997, the Moss Lake Authority shall cause
4 an independent audit to be conducted of the City of Kings Mountain expenses related to
5 Moss Lake to determine whether fees that will be charged to property owners by the City
6 for the use of the Lake during the 1997-98 fiscal year and in future years are fair and
7 equitable. The Authority shall authorize an independent audit of the City's expenses
8 related to Moss Lake to be conducted every two years.

9 (b) The audit shall include an assessment of the cost of services provided to
10 the property owners by the City, including security and cleanup costs. If the audit finds
11 that property owners are being charged excessive fees, the City shall reimburse the
12 property owners the amount that is determined to be excessive. If it is found that property
13 owners are being charged less than a fair and equitable fee, the City shall bill the property
14 owners for the difference as a special assessment. The cost of the audits shall be paid
15 from fees paid by the property owners to the City.

16 (c) The Moss Lake Authority shall determine an equitable method for
17 allocation of pro rata cost based on boat registration for homeowners of lakefront
18 property and nonlake resident registration from 1996 accounting reports of the City of
19 Kings Mountain.

20 (d) Fees shall be equitable for property owners and nonproperty owners and
21 for assessment of fees for all boats, whether fishing or recreational.

22 Section 7. This act becomes effective July 1, 1997.