

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS55276-TA-6 (03/13)

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

Sponsors: Senator Snow.

Referred to:

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.



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

6    **"§ 77-121. Commission established; purposes.**

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

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

27    **"§77-122. Powers and duties.**

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

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

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

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

- 1           (6)    To enter into contracts and execute all instruments necessary or appropriate  
2                    to achieve the purposes of the commission.  
3           (7)    To designate a fiscal agent.  
4           (8)    To perform any lawful acts necessary or appropriate to achieve the purposes  
5                    of the commission.

6    **"§ 77-123. Membership; terms of office; eligibility for appointment; meetings.**

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

- 9           (1)    One member of the North Carolina House of Representatives whose district  
10                   includes a part of the North Carolina portion of the river basin, to be  
11                   appointed by the Speaker of the North Carolina House of Representatives.  
12           (2)    One member of the North Carolina Senate whose district includes a part of  
13                   the North Carolina portion of the river basin, to be appointed by the  
14                   President Pro Tempore of the North Carolina Senate.  
15           (3)    One member of the Tennessee House of Representatives whose district  
16                   includes a part of the Tennessee portion of the river basin, to be appointed  
17                   by the Speaker of the Tennessee House of Representatives.  
18           (4)    One member of the Tennessee Senate whose district includes a part of the  
19                   Tennessee portion of the river basin, to be appointed by the Speaker of the  
20                   Tennessee Senate.  
21           (5)    One member of the Georgia House of Representatives whose district  
22                   includes a part of the Georgia portion of the river basin, to be appointed by  
23                   the Speaker of the Georgia House of Representatives.  
24           (6)    One member of the Georgia Senate whose district includes a part of the  
25                   Georgia portion of the river basin, to be appointed by the President Pro  
26                   Tempore of the Georgia Senate.  
27           (7)    One person, to be appointed by the respective county commission, from each  
28                   of the following four counties in the State of North Carolina:  
29                    a.    Graham County.  
30                    b.    Jackson County.  
31                    c.    Macon County.  
32                    d.    Swain County.  
33           (8)    One person, to be appointed by the respective county commission, from each  
34                   of the following three counties in the State of Tennessee:  
35                    a.    Blount County.  
36                    b.    Loudon County.  
37                    c.    Monroe County.  
38           (9)    One person, to be appointed by the Rabun County Commission, from Rabun  
39                   County Georgia.  
40           (10)   Two members of the Eastern Band of the Cherokee Indians, to be appointed  
41                   by the Tribal Government.  
42           (11)   One person from the Tennessee Valley Authority.  
43           (12)   One person from North Carolina representing a water or sewer municipal  
44                   utility, appointed by the Governor of North Carolina.  
45           (13)   One person from Tennessee representing a water or sewer municipal utility,  
46                   appointed by the Governor of Tennessee.  
47           (14)   One person from Georgia representing a water or sewer municipal utility,  
48                   appointed by the Governor of Georgia.  
49           (15)   One person from North Carolina representing the agricultural community,  
50                   appointed by the Governor of North Carolina.

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

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

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

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

45          (e) The commission shall meet upon the call of the Chair. A majority of the  
46          commission shall constitute a quorum for the transaction of business.

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

50          "§ 77-124. Standing and advisory committees.

1        The commission may establish standing or advisory committees to facilitate communication  
2 among stakeholders in the basin and to maximize participation among all interested parties. The  
3 commission may appoint members to standing or advisory committees in accordance with  
4 guidelines adopted by the commission.

5 **"§ 77-125. Staffing; meeting facilities; assistance by agencies.**

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

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

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

21 **"§ 77-126. Funding.**

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

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

36 **"§ 77-127. Compensation and expenses of commission members.**

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

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

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

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

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

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

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

51 **"§ 77-128. Annual report.**

1        The commission shall submit an annual report, including any recommendations, on or  
2 before October 1 of each year to the Governor of North Carolina and the Environmental  
3 Review Commission of the General Assembly of North Carolina; the Governor of Tennessee  
4 and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or  
5 the Commissioner of the Tennessee Department of Environment and Conservation shall  
6 provide; and to the Governor of Georgia and the Georgia General Assembly, as the Governor,  
7 the General Assembly of Georgia, or the Conservation Commissioner of the Georgia  
8 Department of Natural Resources shall provide.

9        **"§ 77-129. Termination.**

10        The General Assembly of North Carolina may terminate the commission by repealing this  
11 Part. The commission shall terminate if the Tennessee General Assembly and the Georgia  
12 General Assembly both repeal the provisions of the Tennessee Annotated Code and the Official  
13 Code of Georgia Annotated that are comparable to this Part."

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

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

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