

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 1083

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

Sponsors: Senators Snow; and Queen.

Referred to: State and Local Government.

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



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

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

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

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

**"§77-122. Powers and duties.**

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

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

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

- (1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives including, but not limited to, calling meetings and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the commission members.
- (2) To establish standing and ad hoc committees, which shall be constituted in a manner to ensure a balance between recognized interests and states. The commission shall determine the purpose of each standing or ad hoc committee.
- (3) To seek, apply for, accept, and expend gifts, grants, donations, services, and other aid from public or private sources. The commission may accept or expend funds only after an affirmative vote by a majority of the members of the commission.
- (4) To exercise the powers of a body corporate, including the power to sue and be sued, and adopt and use a common seal and alter the same.
- (5) To establish a nonprofit corporation to assist in administration and in fund-raising.
- (6) To enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the commission.
- (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 county commission, from each  
25               of the following four counties in the State of North Carolina:

26               a.    Graham County.

27               b.    Jackson County.

28               c.    Macon County.

29               d.    Swain County.

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

32               a.    Blount County.

33               b.    Loudon County.

34               c.    Monroe County.

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

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

39           (11)   One person from the Tennessee Valley Authority.

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

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

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

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

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

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

1           (18) One person from a nonprofit basin interest group that operates within the  
2           North Carolina portion of the basin, appointed by the Governor of North  
3           Carolina.

4           (19) One person from a nonprofit basin interest group that operates within the  
5           Tennessee portion of the basin, appointed by the Governor of Tennessee.

6           (20) One person from a nonprofit basin interest group that operates within the  
7           Georgia portion of the basin, appointed by the Governor of Georgia.

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

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

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

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

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

46           **"§ 77-124. Standing and advisory committees.**

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

51           **"§ 77-125. Staffing; meeting facilities; assistance by agencies.**

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

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

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

16 **"§ 77-126. Funding.**

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

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

31 **"§ 77-127. Compensation and expenses of commission members.**

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

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

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

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

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

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

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

46 **"§ 77-128. Annual report.**

47        The commission shall submit an annual report, including any recommendations, on or  
48 before October 1 of each year to the Governor of North Carolina and the Environmental  
49 Review Commission of the General Assembly of North Carolina; the Governor of Tennessee  
50 and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or  
51 the Commissioner of the Tennessee Department of Environment and Conservation shall

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

4 **"§ 77-129. Termination.**

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

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

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

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