

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-485
SENATE BILL 968

AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.

The General Assembly of North Carolina enacts:

SECTION 1. The General Statutes are amended by adding a new Chapter to read:

"Chapter 153B.

"Mountain Resources Planning Act.

"§ 153B-1. Short title; findings; purpose.

(a) Short Title. – This Chapter shall be known and may be cited as the "Mountain Resources Planning Act."

(b) Findings. – The General Assembly finds that:

(1) The beauty and abundant natural resources of the mountain region of Western North Carolina are prized by all North Carolinians. Millions of tourists travel to the mountain region of Western North Carolina to see and experience the natural beauty of the mountains, including the vistas near national parks, national forests, State parks, and State forests. This tourism is vitally important to the economy of Western North Carolina.

(2) The United States Congress has recognized the natural abundance and cultural heritage of the mountain region of Western North Carolina by creating the Blue Ridge National Heritage Area, which, in turn, has established a precedent for successful collaborative planning in the stewardship of important mountain resources.

(3) The same beauty and natural abundance that is valued by North Carolina residents, tourists, and the United States Congress is being adversely affected by land-use practices that are negatively impacting the public's enjoyment of the important mountain resources of the mountain region of Western North Carolina, including publicly owned lands. The mountain region of Western North Carolina is subject to challenges and pressures specific to the topography and environment of the mountains. The mountain region of Western North Carolina has experienced accelerating trends that are adversely affecting important mountain resources, and local governments face challenges as they adapt to new and difficult changes to the landscape.

(c) Purpose. – It is the purpose of this Chapter to encourage quality growth and development while preserving the natural resources, open spaces, and farmland of the mountain region of Western North Carolina.

"§ 153B-2. Definitions.

The following definitions apply in this Article:

(1) Commission. – The Mountain Resources Commission created by this Chapter.

(2) Council. – The Mountain Area Technical Advisory Council.

(3) Important mountain resources. – The natural and cultural resources of the mountain region of Western North Carolina, including, but not limited to, State and federal public lands, wildlife habitat, farms, forestland and rural landscapes, mountain vistas, mountain streams and rivers, mountain lakes, and historical and archeological resources.

(4) Mountain region of Western North Carolina. – The area encompassed by the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson,



Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.

- (5) Secretary. – The Secretary of the Department of Environment and Natural Resources.

"§ 153B-3. Mountain Resources Commission.

(a) Creation. – The Mountain Resources Commission is hereby established. The Commission is a permanent body corporate of the State composed of members from the mountain region of Western North Carolina. The Commission shall be located administratively in the Department of Environment and Natural Resources but shall exercise its statutory powers and duties independently of the Department of Environment and Natural Resources. The Commission shall meet in Western North Carolina. Funds appropriated for the Commission by the General Assembly shall be disbursed directly to the Commission at the beginning of each fiscal year.

(b) Purpose. – The purposes and functions of the Mountain Resources Commission are to do all of the following:

- (1) Identify and evaluate issues affecting important mountain resources and recommend policies and programs to address those issues.
- (2) Coordinate with existing local and regional efforts to address threats to important mountain resources and work undertaken by councils of government and the jurisdictions they serve in the mountain region of Western North Carolina.
- (3) Provide a forum for discussion of issues affecting important mountain resources.
- (4) Promote communication, coordination, and education among stakeholders within the mountain region of Western North Carolina.
- (5) Collect research and information from North Carolina and other states and jurisdictions regarding State and regional approaches to coordinating (i) provision of infrastructure for the protection of important mountain resources and (ii) efforts to encourage quality growth to protect such important mountain resources.
- (6) Determine whether new strategies or tools would be helpful to address pressures on important mountain resources and whether and how such strategies or tools should be implemented to protect such resources.
- (7) 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 important mountain resources.

(c) Authority. – 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 subsection shall be effective upon an affirmative vote by a majority of the Commission members.
- (2) To establish standing and ad hoc committees. 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 enter into contracts and execute all instruments necessary or appropriate to achieve the purposes of the Commission.
- (6) To designate a fiscal agent.
- (7) To perform any lawful acts necessary or appropriate to achieve the purposes of the Commission.

(d) Membership. – The Commission shall consist of 17 members as follows:

- (1) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Speaker of the House of Representatives.
- (2) Two representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the President Pro Tempore of the Senate.
- (3) Six representatives from the public at large who are residents of the mountain region of Western North Carolina appointed by the Governor, including:
 - a. Four who shall at the time of appointment be actively connected with or have experience in local government within the mountain region of Western North Carolina.
 - b. One who shall at the time of appointment be actively associated with a land trust organization working in Western North Carolina.
 - c. One who shall at the time of appointment have experience in tourism or tourism development in the mountain region of Western North Carolina.
- (4) One member to represent the North Carolina National Parks, Parkway and Forests Development Council.
- (5) Five members to represent each of the following regional councils of government as appointed by those councils: the Southwestern North Carolina Planning and Economic Development Commission, the Isothermal Planning and Development Commission, the High Country Council of Governments, the Western Piedmont Council of Governments, and the Land of Sky Regional Council.
- (6) One representative appointed by the board of the Blue Ridge National Heritage Area.

The members of the Commission shall elect a chair, vice-chair, and any other officers they consider necessary and shall determine the length of the term of office, not to exceed two years, of each officer. A majority of the Commission shall constitute a quorum. Each member appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the Commission shall be filled by the original appointing authority for the remainder of the unexpired term. Initial terms commence September 1, 2009.

(e) Salary; Expenses. – Members of the Commission shall receive no salary for their service on the Commission but may receive per diem, subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds.

(f) Staff Support. – The Department of Environment and Natural Resources shall provide staff support and facilities to the Commission within the existing programs of the agency. 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.

(g) State Agency Cooperation. – All agencies of the State of North Carolina shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The Secretary of Environment and Natural Resources or the Secretary's designee shall serve as the liaison between the Secretary's agency and the Commission. The Commission may obtain information and data upon request from all officers, agents, agencies, and departments of the State of North Carolina or of local governments while in discharge of its duties.

(h) The Commission shall work in partnership with the Blue Ridge National Heritage Area to protect the important mountain resources across the mountain region of Western North Carolina.

(i) The role of the Commission is advisory in nature and in no way shall the Commission be construed to have regulatory authority. No action of the Commission supercedes any decision of any local planning board.

"§ 153B-4. Mountain Area Resources Technical Advisory Council.

(a) Creation. – There is hereby created a council to be known as the Mountain Area Resources Technical Advisory Council.

(b) The Council shall consist of not more than 13 members appointed by the Mountain Resources Commission to include environmental, engineering, planning, and State and local government professionals with expertise and experience to contribute to the work of the Commission.

(c) Functions and Duties. – The Council shall assist the Commission in an advisory capacity. The Council shall meet on such schedule and provide such assistance as may be requested of it by the Commission.

(d) Members; Multiple Offices. – Membership on the Mountain Area Resources Technical Advisory Council is hereby declared to be an office that may be held concurrently with other elective or appointive offices (except the office of Commission member) in addition to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

(e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected annually by the Council.

(f) Compensation. – The members of the Advisory Council who are not State employees may receive per diem and necessary travel and subsistence expenses in accordance with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds."

SECTION 2. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 11th day of August, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:37 p.m. this 26th day of August, 2009