

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 415
Senate State and Local Government Committee Substitute Adopted 6/9/15

Short Title: Fontana Dam/Establish Electric Power Board.

(Local)

Sponsors:

Referred to:

April 1, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FONTANA DAM TO AUTHORIZE THE TOWN COUNCIL TO ESTABLISH AN ELECTRIC POWER BOARD TO MANAGE AND CONTROL THE TOWN'S ELECTRIC PUBLIC ENTERPRISE SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. The Charter of the Town of Fontana Dam, being Chapter 110 of the 2011 Session Laws, is amended by adding a new Article to read as follows:

"ARTICLE VIII. Electric Power Board.

"Section 8.1. Power Board Created. (a) For the purpose of providing electric power generation, transmission, and distribution systems as authorized in Article 16 of Chapter 160A of the General Statutes, there is hereby established an Electric Power Board for the Town of Fontana Dam, to be known and designated as "The Town of Fontana Dam Electric Power Board," hereinafter referred to as the "Power Board." The Power Board shall consist of five members, who shall be appointed by the Town Council. Two of the members shall be residents of the Town, and three shall be at-large members who may reside outside of the Town but must be residents of the State of North Carolina. The members shall serve staggered terms of four years each and shall be eligible for successive terms. If a member resigns, dies, or otherwise becomes incapable of performing his or her duties, the Town Council shall appoint a person to fill the remainder of the term. A member of the Town Council shall be eligible to serve as a member of the Power Board.

(b) In order to stagger the terms as provided in subsection (a) of this section, the initial Power Board members shall be appointed as follows: (i) two to serve for a term of four years, (ii) two for a term of three years, and (iii) one for a term of two years. Upon the expiration of the terms of the initial Power Board members, each member shall be appointed for a term of four years and shall serve until his or her successor is appointed.

"Section 8.2. Independent Control. The Power Board, acting by itself or through its duly authorized officers and employees, shall have and maintain full control and complete jurisdiction over the management, operation, maintenance, and improvement of the electric utility system and may do any and all acts and things that are necessary, convenient, or desirable to the exercise of the control and jurisdiction and to the establishment, preservation, and promotion of an orderly, economic, and businesslike administration of the system. Except as expressly provided in this Article, the system shall be free from the jurisdiction, direction, or control of Town officers, Town employees, and the Town Council.

"Section 8.3. Organization; Meetings. (a) The members of the Power Board shall meet as soon after their appointment as possible and shall elect out of their number a chair and



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1 secretary, each of whom shall be a different person. However, the Power Board may employ
2 someone who is not a member to serve as secretary and may, in its discretion, elect a member
3 to serve as vice-chair. The duties of each officer shall be as prescribed by the Power Board
4 from time to time and shall be consistent with the provisions of this Article. Each member of
5 the Power Board shall be entitled to vote on any question before the Power Board.

6 (b) The Power Board shall hold at least one public meeting every other month and as
7 many special meetings as may be necessary or convenient at a time and place to be determined
8 by the Power Board. The presence of three members of the Power Board shall constitute a
9 quorum. The Power Board shall keep a written record of all regular and special meetings.

10 "Section 8.4. **Compensation.** The members of the Power Board shall each receive
11 compensation from the funds under its control in a sum fixed by the Power Board in its annual
12 budget.

13 "Section 8.5. **Surety Bonds.** The Power Board may, in its discretion, and in an amount it
14 deems necessary, require surety bonds from any system officer or employee. Premiums for the
15 bonds shall be paid out of the funds of the system.

16 "Section 8.6. **Duties.** The Power Board shall do the following:

17 (1) Keep the funds, books, and accounts of the electric utility system separate
18 and apart from all other funds, books, and accounts of the Town or any of
19 the departments of the Town. All funds handled by the Power Board shall be
20 paid over to the finance officer of the Power Board. The funds of the system,
21 including revenues from the operation thereof, shall be deposited in the
22 name of the Power Board. The funds shall be disbursed only on voucher
23 signed by the chair or general manager of the system issued pursuant to
24 resolution or order of the Power Board, a certified copy of which shall be
25 filed in the office of the finance officer of the Power Board.

26 (2) At the end of each fiscal year, cause the funds, books, and accounts of the
27 Power Board to be audited by a certified public accountant or an accountant
28 certified by the Local Government Commission as provided in G.S. 159-34.
29 The Town Council shall select the auditor, and the auditor shall report
30 directly to the Town Council. Upon giving reasonable notice, the Town
31 Council shall have full access to the books, accounts, and records of the
32 Power Board.

33 (3) Make and file with the Town Council on the first day of January and the first
34 day of July of each year a financial statement showing the financial
35 operations of the system during the preceding six months and the financial
36 condition of the system.

37 (4) Exercise fiscal control related to all matters, including establishing and
38 maintaining an accounting system and designating an official depository, as
39 provided in Part 3 of Article 3 of Subchapter III of Chapter 159 of the
40 General Statutes.

41 (5) Make and enforce all necessary and desirable rules and regulations for the
42 efficient use, operation, and management of the system.

43 "Section 8.7. **Employment of Personnel.** The Power Board shall have the power to employ
44 and fix the duties and compensation of its officers and employees as it deems necessary or
45 convenient for the operation of the system. The Power Board may employ a general manager
46 who shall be qualified by training and experience to supervise and manage the day-to-day
47 operation of the electric utility system. The general manager shall serve under the direction and
48 control of the Power Board and at the pleasure of the Power Board. The Power Board may
49 delegate to the general manager, among other things, the following powers and duties:

50 (1) To determine the number of employees necessary for the operation of the
51 electric utility system and to establish their duties and compensation.

- 1 (2) To control the construction and repairs of utility facilities.
2 (3) To execute and enforce all rules, regulations, programs, plans, and decisions
3 made or adopted by the Power Board.
4 (4) To prepare plans and specifications, accept bids, and execute contracts,
5 according to standards established by the Power Board.
6 (5) To employ a finance officer who may be given the authority to handle the
7 day-to-day financial operations of the Power Board, including billings and
8 receiving payment for services provided by the Power Board. The finance
9 officer shall conduct his or her duties as provided in Chapter 159 of the
10 General Statutes.

11 "Section 8.8. **Sale of Electricity.** The Power Board is hereby authorized and empowered to
12 extend its electric system and to sell electricity in any area permitted in G.S. 160A-312.

13 "Section 8.9. **Rates.** The Power Board shall fix rates to be charged for services rendered by
14 the system. The rates shall be fair, reasonable, and uniform for all customers in the same class,
15 but different rate schedules may be applied to different classes of customers, as determined by
16 the Power Board.

17 "Section 8.10. **Revenue Bonds.** The Power Board is hereby authorized to provide for the
18 issuance of revenue bonds for the acquisition, construction, improvement, or expansion of the
19 electric system from time to time in the manner provided for in this section. The bonds shall be
20 issued by the Town Council pursuant to Article 5 of Subchapter IV of Chapter 159 of the
21 General Statutes, shall be issued in the amounts and at the times, and shall bear the maturity
22 dates as the Power Board shall direct. It shall be the duty of the Town Council to provide for
23 the issuance of the bonds pursuant to general law as directed by the Power Board. However, the
24 Town Council shall not be required to issue any bonds under this section without its approval if
25 the bonds to be issued are payable out of the Town's general revenue. It is the intention of this
26 section that the Power Board be empowered to direct the issuance of bonds under this section
27 only when the bonds are to be payable solely from the revenues of the electric system.

28 "Section 8.11. **Contracts, Negotiations, and Grants.** (a) The Power Board may enter into
29 leases, contracts, and agreements as it deems necessary or desirable in conducting the business
30 and operations of the system so long as they are in accordance with the general laws of the
31 State of North Carolina. The authority given the Power Board by this section shall not be
32 construed to mean that the Power Board has the authority to sell, lease, or otherwise dispose of
33 all or a major part of the system, unless the transaction is approved by the Town Council by
34 ordinance.

35 (b) The Power Board may apply for, accept, receive, and dispense funds or grants made
36 available to it by the State or any of its agencies or political subdivisions, the United States, or
37 any private entity.

38 "Section 8.12. **Eminent Domain.** The Power Board may exercise the right of eminent
39 domain on behalf of and in the name of the Town of Fontana Dam for the purpose of acquiring
40 any property, real, personal, or mixed, necessary or useful in exercising the power and authority
41 conferred in this Article. The title to all property acquired by the Power Board either by
42 contract or condemnation shall be taken in the name of the Town of Fontana Dam."

43 **SECTION 2.** Section 1 of this act becomes effective only if both of the following
44 acts occur: (i) the Fontana Village Resort approves the transfer of the electric power grid under
45 its ownership and control to the Town of Fontana Dam and (ii) the Town Council of the Town
46 of Fontana Dam, in its discretion and by majority vote, approves the operation of an electric
47 utility system as provided in Section 1 of this act. If both of these acts do not occur, Section 1
48 of this act shall have no force and effect.

49 **SECTION 3.** This act is effective when it becomes law.