

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 859
Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/12/03
House Committee Substitute Favorable 6/15/04

Short Title: River Basins Advisory Commissions.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE CATAWBA/WATEREE RIVER BASIN ADVISORY
COMMISSION AND THE YADKIN/PEE DEE RIVER BASIN ADVISORY
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a
new Article to read:

"Article 8.

"River Basins Advisory Commissions.

"§ 77-110. Definitions.

The following definitions apply in this Article:

- (1) 'Commission' or 'commissions' means (i) the Catawba/Wateree River Basin Advisory Commission, (ii) the Yadkin/Pee Dee River Basin Advisory Commission, or (iii) both commissions, as required by the context.
- (2) 'River basin' or 'river basins' means (i) that land area designated as the Catawba River Basin pursuant to G.S. 143-215.22G and that land area designated as the Catawba/Wateree River Basin by the South Carolina Department of Health and Environmental Control, (ii) that land area designated as the Yadkin (Yadkin-Pee Dee) River Basin pursuant to G.S. 143-215.22G and that land area designated as the Yadkin/Pee Dee River Basin by the South Carolina Department of Health and Environmental Control, or (iii) both river basins, as required by the context.

"§ 77-111. Commissions established; purposes.

There is established the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be

1 constituted as described in this Article and there shall be a separate commission for each
2 river basin. The commissions shall be permanent bodies composed of members from the
3 State of North Carolina and the State of South Carolina. The purpose of each
4 commission shall be to:

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

23 **"§ 77-112. Powers and duties.**

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

26 (b) Neither commission shall have any authority to obligate or otherwise bind the
27 State of North Carolina, the State of South Carolina, or any agency or subdivision of
28 either state.

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

- 31 (1) To develop rules and procedures for the conduct of its business or as
32 may be necessary to perform its duties and carry out its objectives
33 including, but not limited to, calling meetings and establishing voting
34 procedures. Rules and procedures developed pursuant to this item shall
35 be effective upon an affirmative vote by a majority of the commission
36 members.
- 37 (2) To establish standing and ad hoc committees, which shall be
38 constituted in a manner to ensure a balance between recognized
39 interests and states. The commissions shall determine the purpose of
40 each standing or ad hoc committee.
- 41 (3) To seek, apply for, accept, and expend gifts, grants, donations,
42 services, and other aid from public or private sources. The
43 commissions may accept or expend funds only after an affirmative
44 vote by a majority of the members of the commissions.

- 1 (4) To exercise the powers of a body corporate, including the power to sue
2 and be sued, and adopt and use a common seal and alter the same.
- 3 (5) To enter into contracts and execute all instruments necessary or
4 appropriate to achieve the purposes of the commissions.
- 5 (6) To designate a fiscal agent.
- 6 (7) To perform any lawful acts necessary or appropriate to achieve the
7 purposes of the commissions.

8 **"§ 77-113. Membership; terms of office; eligibility for appointment; meetings.**

9 (a) The Catawba/Wateree River Basin Advisory Commission shall be composed
10 of 15 members as follows:

- 11 (1) Two members of the North Carolina House of Representatives whose
12 districts include a part of the North Carolina portion of the river basin,
13 to be appointed by the Speaker of the North Carolina House of
14 Representatives.
- 15 (2) Two members of the North Carolina Senate whose districts include a
16 part of the North Carolina portion of the river basin, to be appointed by
17 the President Pro Tempore of the North Carolina Senate.
- 18 (3) Two members of the South Carolina House of Representatives, to be
19 appointed by the Speaker of the South Carolina House of
20 Representatives.
- 21 (4) Two members of the South Carolina Senate, to be appointed by the
22 President Pro Tempore of the South Carolina Senate.
- 23 (5) One person from South Carolina representing a water or sewer
24 municipal utility to be appointed by the South Carolina legislative
25 members of the Commission.
- 26 (6) One person from a nonprofit land conservation trust operating within
27 the North Carolina portion of the river basin, appointed by the
28 Governor of North Carolina.
- 29 (7) The President of Duke Power or the President's designee.
- 30 (8) The Chair of the Bi-State Catawba River Task Force or the Chair's
31 designee.
- 32 (9) The Chief Executive Officer of Carolina's Partnership, Inc., or the
33 Chief Executive Officer's designee.
- 34 (10) One person to represent the following commissions, appointed jointly
35 by the three chief executive officers of the commissions: the Lake
36 Wylie Marine Commission established pursuant to Article 4 of
37 Chapter 77 of the General Statutes, the Mountain Island Lake Marine
38 Commission established pursuant to Article 6 of Chapter 77 of the
39 General Statutes, and the Lake Norman Marine Commission
40 established pursuant to Chapter 1089 of the 1969 Session Laws.
- 41 (11) One member of a lake homeowner's association located on the
42 Catawba/Wateree River whose members reside in South Carolina, to
43 be appointed by the President Pro Tempore of the South Carolina
44 Senate.

1 (b) The Yadkin/Pee Dee River Basin Advisory Commission shall be composed
2 of 15 members as follows:

- 3 (1) Two members of the North Carolina House of Representatives whose
4 districts include a part of the North Carolina portion of the river basin,
5 to be appointed by the Speaker of the North Carolina House of
6 Representatives.
- 7 (2) Two members of the North Carolina Senate whose districts include a
8 part of the North Carolina portion of the river basin, to be appointed by
9 the President Pro Tempore of the North Carolina Senate.
- 10 (3) Two members of the South Carolina House of Representatives, to be
11 appointed by the Speaker of the South Carolina House of
12 Representatives.
- 13 (4) Two members of the South Carolina Senate, to be appointed by the
14 President Pro Tempore of the South Carolina Senate.
- 15 (5) One person from South Carolina representing a water or sewer
16 municipal utility to be appointed by the South Carolina legislative
17 members of the Commission.
- 18 (6) One person from South Carolina representing the agricultural
19 community to be appointed by the South Carolina legislative members
20 of the Commission.
- 21 (7) One person from a water or sewer municipal authority, appointed by
22 the Governor of North Carolina.
- 23 (8) The President of Progress Energy or the President's designee.
- 24 (9) The President of Alcoa Power Generating, Inc., (APGI) or the
25 President's designee.
- 26 (10) The President of Weyerhaeuser or the President's designee.
- 27 (11) A representative of the land development industry, whose organization
28 does business within the Yadkin/Pee Dee River Basin and who shall be
29 appointed by the Chair of the Commission.

30 (c) Each member appointed to the commissions pursuant to subdivisions (1) and
31 (2) of subsections (a) and (b) of this section shall serve at the pleasure of the appointing
32 authority so long as the member remains a Representative or Senator. Each member
33 appointed to the commissions pursuant to subdivisions (3) and (4) of subsections (a) and
34 (b) of this section shall serve as provided by the General Assembly of South Carolina.
35 Each member appointed to the commissions pursuant to subdivisions (7) through (9) of
36 subsection (a) and subdivisions (8) through (10) of subsection (b) of this section shall
37 serve for so long as the member continues in the qualifying position or, if the member is
38 a designee, at the pleasure of the designating authority. Each member appointed to the
39 commissions pursuant to subdivisions (6) and (10) of subsection (a) and subdivisions
40 (7) and (11) of subsection (b) of this section shall serve a term of two years and may be
41 reappointed to serve no more than three consecutive full terms or 84 consecutive
42 months, whichever is greater. The term of a person appointed to the commission
43 pursuant to subdivision (10) of subsection (a) of this section shall expire on 1 January of
44 even-numbered years. The term of a person appointed to the commission pursuant to

1 subdivision (6) of subsection (a) of this section shall expire on 1 January of
2 odd-numbered years. The term of a member who is appointed to the commissions
3 pursuant to subdivisions (5) and (11) of subsection (a) and subdivisions (5) and (6) of
4 subsection (b) of this section shall serve as provided by the General Assembly of South
5 Carolina. An appointment to fill a vacancy on the commissions shall be for the
6 unexpired portion of the term. A vacancy on the commissions shall be filled in the same
7 manner as the original appointment. Members of the commissions who are appointed
8 from or reside in North Carolina may be removed by the Governor of North Carolina
9 for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

10 (d) The legislative members of each commission may appoint additional
11 members to the commission to serve as advisory members as the legislative members
12 consider necessary.

13 (e) The members of each commission shall elect a Chair, Vice-Chair, and any
14 other officers they consider necessary and shall determine the length of the term of
15 office, not to exceed two years, of each officer. The Chair and the Vice-Chair shall not
16 be from the same state and the Chair shall be rotated between the State of North
17 Carolina and the State of South Carolina.

18 (f) Each commission shall meet upon the call of the Chair. A majority of each
19 commission shall constitute a quorum for the transaction of business.

20 (g) The legislative members of the commissions from each state may meet
21 separately to discuss river basin-related issues affecting their state and may report their
22 findings independently of the commissions.

23 **§ 77-114. Staffing; meeting facilities; assistance by agencies.**

24 (a) The North Carolina Department of Environment and Natural Resources and
25 the South Carolina Department of Health and Environmental Control shall provide staff
26 support and facilities to each commission within the existing programs of the respective
27 agencies. Additional staff may be hired or contracted by each commission through
28 funds raised by or provided to it. The duties and compensation of any additional staff
29 shall be determined and fixed by each commission, within available resources.

30 (b) All agencies of the State of North Carolina and the State of South Carolina
31 shall cooperate with the commissions and, upon request, shall assist each commission in
32 fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural
33 Resources and the Commissioner of the South Carolina Department of Health and
34 Environmental Control or their designees shall each serve as the liaison between their
35 respective state agencies and each commission.

36 (c) The commissions may obtain information and data upon request from all state
37 officers, agents, agencies, and departments of the State of North Carolina and the State
38 of South Carolina while in discharge of their duties.

39 **§ 77-115. Funding.**

40 (a) Each commission shall annually adopt a budget that shall include the
41 estimated income and expenses of each commission. Funding for the commissions shall
42 be shared and apportioned between the State of North Carolina and the State of South
43 Carolina as each state may provide through its regular appropriations process.

1 (b) The accounts and records of each commission showing the receipt and
2 disbursement of funds from whatever source derived shall be in the form that the
3 Auditor of North Carolina and the State Auditor of South Carolina prescribe. The
4 accounts and records of each commission shall be subject to an annual audit by the
5 Auditor of North Carolina and the State Auditor of South Carolina or their legal
6 representatives. The cost of the annual audits shall be borne by each commission. The
7 results of the audits shall be delivered to the Joint Legislative Commission on
8 Governmental Operations of the General Assembly of North Carolina and to the
9 General Assembly of South Carolina as the General Assembly of South Carolina shall
10 provide.

11 **"§ 77-116. Compensation and expenses of members of the commissions.**

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

15 (1) Members of the commissions who are members of the General
16 Assembly at the rate established in G.S. 120-3.1.

17 (2) Members of the commissions who are officials or employees of the
18 State or of local government agencies at the rate established in
19 G.S. 138-6.

20 (3) All other members of the commissions at the rate established in
21 G.S. 138-5.

22 (b) Members of the commissions who are appointed from or reside in South
23 Carolina shall be compensated as provided by the General Assembly of South Carolina.

24 (c) All expenses shall be paid from funds appropriated or otherwise available to
25 the commissions.

26 **"§ 77-117. Annual report.**

27 The commissions shall submit annual reports, including any recommendations, on or
28 before 1 October of each year to the Governor of North Carolina, the Environmental
29 Review Commission of the General Assembly of North Carolina, the Governor of South
30 Carolina, and the General Assembly of South Carolina, as the Governor, the General
31 Assembly of South Carolina, or the Commissioner of the South Carolina Department of
32 Health and Environmental Control shall provide.

33 **"§ 77-118. Termination.**

34 The General Assembly of North Carolina may terminate the commissions by
35 repealing this Article. The commissions shall terminate if the General Assembly of
36 South Carolina repeals the provisions of the South Carolina Code of Laws that are
37 comparable to this Article."

38 **SECTION 2.** Notwithstanding the provisions of G.S. 77-113(c), as enacted
39 by Section 1 of this act, the initial term of the member of the Catawba/Wateree River
40 Basin Advisory Commission appointed pursuant to G.S. 77-113(a)(10) shall expire
41 1 January 2006. Notwithstanding the provisions of G.S. 77-113(c), as enacted by
42 Section 1 of this act, the initial term of the member of the Catawba/Wateree River Basin
43 Advisory Commission appointed pursuant to G.S. 77-113(a)(6) shall expire 1 January

1 2007. The River Basin Advisory Commissions shall submit the first reports pursuant to
2 G.S. 77-117, as enacted by Section 1 of this act, on or before 1 October 2005.

3 **SECTION 3.** This act shall not be construed to obligate the General
4 Assembly of North Carolina or the General Assembly of South Carolina to appropriate
5 any funds to implement the provisions of this act.

6 **SECTION 4.** This act is effective when it becomes law.