

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

S

D

SENATE BILL 1083
State and Local Government Committee Substitute Adopted 5/5/09
Third Edition Engrossed 7/9/09
House Committee Substitute Favorable 7/28/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S1083-PCS85276-TA-34

Short Title: Little Tennessee River Basin Advisory Comm.

(Public)

Sponsors:

Referred to:

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 North Carolina/South Carolina River Basins-Basin Advisory Commissions."

9 **SECTION 2.** Chapter 77 of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 10.

12 "North Carolina/Tennessee/Georgia River Basin Advisory Commission.

13 **§ 77-140. Definitions.**

14 The following definitions apply in this Article:

15 (1) "Commission" means the Little Tennessee River Basin Advisory
16 Commission.

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

22 **§ 77-141. Commission established; purposes.**

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

27 (1) Provide guidance and make recommendations to local, state, and federal
28 legislative and administrative bodies, and to others as it considers necessary
29 and appropriate, for the use, stewardship, and enhancement of the water and
30 other natural resources for all citizens within the river basin.



* S 1 0 8 3 - P C S 8 5 2 7 6 - T A - 3 4 *

- 1 (2) Provide a forum for discussion of issues affecting the river basin's water
2 quantity and water quality and issues affecting other natural resources.
3 (3) Promote communication, coordination, and education among stakeholders
4 within the river basin.
5 (4) Identify problems and recommend appropriate solutions.
6 (5) Undertake studies related to water quantity, water quality, and other natural
7 resources in the river basin based on existing data available from agencies
8 located in any of the member states and provide for the distribution and
9 dissemination of information garnered from those studies.
10 (6) Determine the optimum approach to comprehensively and collaboratively
11 provide recommendations for integrated river management, including, but
12 not limited to, the total assimilative capacity of the river.

13 **"§ 77-142. Powers and duties.**

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

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

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

- 21 (1) To develop rules and procedures for the conduct of its business or as may be
22 necessary to perform its duties and carry out its objectives, including, but not
23 limited to, calling meetings and establishing voting procedures. Rules and
24 procedures developed pursuant to this subdivision shall be effective upon an
25 affirmative vote by a majority of the Commission members.
26 (2) To establish standing and ad hoc committees, which shall be constituted in a
27 manner to ensure a balance between recognized interests and states. The
28 Commission shall determine the purpose of each standing or ad hoc
29 committee.
30 (3) To seek, apply for, accept, and expend gifts, grants, donations, services, and
31 other aid from public or private sources. The Commission may accept or
32 expend funds only after an affirmative vote by a majority of the members of
33 the Commission.
34 (4) To exercise the powers of a body corporate, including the power to sue and
35 be sued, and adopt and use a common seal and alter the same.
36 (5) To establish a nonprofit corporation to assist in administration and in
37 fund-raising.
38 (6) To enter into contracts and execute all instruments necessary or appropriate
39 to achieve the purposes of the Commission.
40 (7) To designate a fiscal agent.
41 (8) To perform any lawful acts necessary or appropriate to achieve the purposes
42 of the Commission.

43 **"§ 77-143. Membership; terms of office; eligibility for appointment; meetings.**

44 (a) The Little Tennessee River Basin Advisory Commission shall be composed of 27
45 members as follows:

- 46 (1) One member of the North Carolina House of Representatives whose district
47 includes a part of the North Carolina portion of the river basin, to be
48 appointed by the Speaker of the North Carolina House of Representatives.
49 (2) One member of the North Carolina Senate whose district includes a part of
50 the North Carolina portion of the river basin, to be appointed by the
51 President Pro Tempore of the North Carolina Senate.

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

1 (21) One person representing Duke Energy Carolinas, appointed by the President
2 of Duke Energy Carolinas.

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

29 (c) The legislative members of the Commission may appoint additional members to the
30 Commission to serve as advisory members as the legislative members consider necessary.

31 (d) The members of the Commission shall elect a chair, vice-chair, and any other
32 officers they consider necessary and shall determine the length of the term of office, not to
33 exceed two years, of each officer. The chair and the vice-chair shall not be from the same state,
34 and the chair shall be rotated among the States of North Carolina, Tennessee, and Georgia.

35 (e) The Commission shall meet upon the call of the chair. A majority of the
36 Commission shall constitute a quorum for the transaction of business.

37 (f) The legislative members of the Commission from each state may meet separately to
38 discuss river basin-related issues affecting their state and may report their findings
39 independently of the Commission.

40 **"§ 77-144. Standing and advisory committees.**

41 The Commission may establish standing or advisory committees to facilitate
42 communication among stakeholders in the basin and to maximize participation among all
43 interested parties. The Commission may appoint members to standing or advisory committees
44 in accordance with guidelines adopted by the Commission.

45 **"§ 77-145. Staffing; meeting facilities; assistance by agencies.**

46 (a) The North Carolina Department of Environment and Natural Resources, the
47 Tennessee Department of Environment and Conservation, and the Georgia Department of
48 Natural Resources shall provide staff support and facilities to the Commission within the
49 existing programs of the respective agencies. Additional staff may be hired or contracted by the
50 Commission through funds raised by or provided to it. The duties and compensation of any
51 additional staff shall be determined and fixed by the Commission, within available resources.

1 (b) All agencies of the State of North Carolina, the State of Tennessee, and the State of
2 Georgia shall cooperate with the Commission and, upon request, shall assist the Commission in
3 fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural
4 Resources, the Commissioner of the Tennessee Department of Environment and Conservation,
5 and the Commissioner of the Georgia Department of Natural Resources or their designees shall
6 each serve as the liaison between their respective state agencies and the Commission.

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

10 **"§ 77-146. Funding.**

11 (a) The Commission shall annually adopt a budget that shall include the estimated
12 income and expenses of the Commission. Funding for the Commission shall be shared and
13 apportioned among the State of North Carolina, the State of Tennessee, and the State of
14 Georgia as each state may provide through its regular appropriations process.

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

25 **"§ 77-147. Compensation and expenses of Commission members.**

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

29 (1) Members of the Commission who are members of the General Assembly at
30 the rate established in G.S. 120-3.1.

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

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

34 (b) Members of the Commission who are appointed from or reside in Tennessee shall
35 be compensated as provided by the Tennessee General Assembly.

36 (c) Members of the Commission who are appointed from or reside in Georgia shall be
37 compensated as provided by the Georgia General Assembly.

38 (d) All expenses shall be paid from funds appropriated or otherwise available to the
39 Commission.

40 **"§ 77-148. Annual report.**

41 The Commission shall submit an annual report, including any recommendations, on or
42 before October 1 of each year to the Governor of North Carolina and the Environmental
43 Review Commission of the General Assembly of North Carolina; the Governor of Tennessee
44 and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or
45 the Commissioner of the Tennessee Department of Environment and Conservation shall
46 provide; and to the Governor of Georgia and the Georgia General Assembly, as the Governor,
47 the General Assembly of Georgia, or the Commissioner of the Georgia Department of Natural
48 Resources shall provide.

49 **"§ 77-149. Termination.**

50 The General Assembly of North Carolina may terminate the Commission by repealing this
51 Article. The Commission shall terminate if the Tennessee General Assembly and the Georgia

1 General Assembly both repeal the provisions of the Tennessee Code Annotated and the Official
2 Code of Georgia Annotated that are comparable to this Article."

3 **SECTION 3.** The Little Tennessee River Basin Advisory Commission shall submit
4 the first report pursuant to G.S. 77-148, as enacted by Section 2 of this act, on or before
5 October 1, 2011.

6 **SECTION 4.** This act shall not be construed to obligate the General Assembly of
7 North Carolina, the Tennessee General Assembly, or the Georgia General Assembly to
8 appropriate any funds to implement the provisions of this act.

9 **SECTION 5.** This act is effective when it becomes law.