

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 418
Committee Substitute Favorable 4/15/13
Committee Substitute #2 Favorable 5/1/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H418-PCS80386-STx-74

Short Title: Buncombe Culture & Rec. Authority.

(Local)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING BUNCOMBE COUNTY, OR BUNCOMBE COUNTY AND MUNICIPALITIES LOCATED THEREIN, TO ESTABLISH A CULTURE AND RECREATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Culture and Recreation Authority; creation; membership. – Buncombe County may create a Culture and Recreation Authority (hereinafter "Authority"). The Authority shall be a body corporate and politic.

(a1) The Authority shall be created by ordinance. The Authority shall consist of seven members (hereinafter "Board"). All Board members shall be appointed by the Board of Commissioners of Buncombe County (hereinafter "Board of Commissioners"). The Board of Commissioners may, no earlier than 24 months after the creation of the Authority, expand the Authority to include other municipalities located within Buncombe County. Agreement to expand shall be evidenced by ordinances adopted by each participating unit in the Authority. In such case, the agreement may reduce the number of appointees by the Board of Commissioners, but in all cases the Board shall be seven, nine, 11, or 13 members with a majority appointed by the Board of Commissioners.

(a2) For the purpose of this act, "participating unit" means any unit of local government that is a party to the agreement.

(b) In all cases, at least one of the members appointed by each participating unit shall be a member of the governing board of that participating unit. Nothing in this act shall prohibit the appointment of only elected officials to the Authority. All appointments shall be for a term of three years, except that initial members shall serve one-, two-, or three-year terms to provide for staggering. The date from which regular three-year terms shall run shall be established in the ordinance. If the Authority created under subsection (a1) of this section is later expanded to include one or more additional municipalities located within Buncombe County and the number of county appointees is reduced, that ordinance shall specify which county appointees' terms are terminated.

(c) The members of the Authority shall elect a chair and vice-chair from the membership of the Authority. They shall also elect a secretary who may or may not be a member of the Authority.

(d) A majority of the members shall constitute a quorum for the transaction of business, and an affirmative vote of the majority of the members present at a meeting of the



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1 Authority shall be required to constitute action of the Authority. Members of the Authority
2 shall receive such compensation, if any, as may be fixed by the participating units.

3 **SECTION 2.** Purpose of the Authority. – The purpose of the Authority shall be to
4 manage or operate libraries, parks, greenways, recreation facilities, or cultural organizations, as
5 designated by the units of local government who are parties to the agreement. Notwithstanding
6 any other provision of law, participating units may dedicate, sell, convey, donate, or lease any
7 of its interest in any property to the Authority under any terms established by the participating
8 units. Once an asset is conveyed to the Authority, it may not be removed from the Authority's
9 management or control without the approval of a majority of the members of the governing
10 boards of all participating units.

11 **SECTION 3.** General powers of the Authority. – The general powers of the
12 Authority shall be to:

- 13 (1) Make rules and regulations not inconsistent with this act for its organization
14 and internal management.
- 15 (2) Employ persons deemed necessary to carry out functions and duties assigned
16 to them by the Authority and to fix their compensation within the limit of
17 available funds.
- 18 (3) With the approval of a participating unit, to use officers, employees, agents,
19 and facilities of the county or city on such basis as may be agreed upon.
- 20 (4) Appoint a full-time Director to serve at its pleasure. The Director is
21 responsible to the Authority for the administration of all departments within
22 the Authority. The Director shall appoint, suspend, or remove all Authority
23 employees. The Director shall make his or her appointments, suspensions,
24 and removals in accordance with any general personnel rules, regulations,
25 policies, or ordinances that the Authority may adopt.
- 26 (5) Acquire, maintain, and operate any buildings, structures, and facilities as
27 may be necessary or convenient for the operations of the Authority.
- 28 (6) Establish rules governing the use of the cultural and recreational facilities
29 under the jurisdiction of the Authority.
- 30 (7) Enter into contracts and leases for facilities and services.
- 31 (8) Acquire and dispose of real and personal property under the jurisdiction of
32 the Authority with the approval of the participating units.
- 33 (9) Surrender to the participating unit who conveyed it to the Authority any
34 property no longer required by the Authority.
- 35 (10) Allocate funds for repairs, renovations, and improvements of real and
36 personal property under the jurisdiction of the Authority.
- 37 (11) Solicit financial and material support from public and private sources.
- 38 (12) Receive public and private donations, appropriations, and grants.
- 39 (13) Prepare and submit an annual budget to the participating units in the same
40 manner as other county and city departments, but the budget is subject to
41 adoption only by the county.
- 42 (14) Make recommendations and an annual report to the participating units
43 concerning the operation of the Authority and the status of cultural and
44 recreational programs under the jurisdiction of the Authority.
- 45 (15) Make plans, surveys, and studies of libraries, parks, greenways, recreational
46 facilities, and cultural organizations under the jurisdiction of the Authority
47 and to prepare and make recommendations to the participating units in
48 regard thereto.
- 49 (16) Retain and employ counsel, auditors, engineers, and private consultants on
50 an annual salary contract basis or otherwise for rendering professional or
51 technical services and advice.

- 1 (17) Sue and be sued.
2 (18) Have a seal.
3 (19) Do all things necessary or convenient to carry out the purposes provided for
4 in this act and for the exercise of the powers granted to the Authority.

5 **SECTION 4.** Funds. – (a) Participating units may appropriate funds to support the
6 establishment and operation of the Authority. Participating units may also dedicate, sell,
7 convey, donate, or lease any of its interest in any property to the Authority. Further, the
8 Authority may establish any license and regulatory fees and charges as it may deem
9 appropriate, subject to the approval of the governing boards of all the participating units. In
10 accordance with G.S. 153A-149, Buncombe County may separately levy and collect an ad
11 valorem tax in the county, but not exceeding seven cents (7¢) on the one hundred dollars
12 (\$100.00) valuation of property in the county from year to year and shall keep the same as a
13 separate and special fund to be used only for cultural and recreational purposes under the
14 jurisdiction of the Authority. The county may also issue general obligation bonds as authorized
15 by the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes.

16 (b) The Authority shall have no authority to tax property within its jurisdictional
17 boundaries and shall have no powers of eminent domain. The Authority is not eligible to
18 receive local sales or use or any other taxes allocated by the State to taxing counties and cities.

19 **SECTION 5.** Fiscal accountability. – The Authority shall be fiscally accountable to
20 the participating units, which have authority to examine all records and accounts of the
21 Authority at any time.

22 **SECTION 6.** Termination. – The participating units shall have the authority to
23 terminate the existence of the Authority at any time by a majority vote of the governing boards
24 of all of the participating units. In the event of termination, (i) all property and assets of the
25 Authority which were conveyed to the Authority shall automatically become the property of the
26 participating unit which conveyed the asset to the Authority and (ii) the participating units shall
27 jointly succeed to all other rights, obligations, and liabilities of the Authority as provided by the
28 agreement.

29 **SECTION 7.** Insofar as the provisions of this act are not consistent with the
30 provisions of any other act or law, public or private, the provisions of this act shall be
31 controlling.

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