

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  
Senate State and Local Government Committee Substitute Adopted 6/18/13  
PROPOSED SENATE COMMITTEE SUBSTITUTE H418-PCS70469-STx-79

Short Title: Buncombe Culture & Rec. Authority.

(Local)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

AN ACT AUTHORIZING BUNCOMBE COUNTY 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.

(a) 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" or "County").

(b) At least one of the members appointed shall be a member of the governing board of the County. 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.

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

(e) The Board of Commissioners has the right to assign Buncombe County employees to the Authority, and the Buncombe County Personnel Ordinance shall not be applicable to such employees assigned to the Authority. Such employees shall be considered employees of the Authority from and after the date of the assignment.

**SECTION 2.** Purpose of the Authority. – The purpose of the Authority shall be to manage or operate libraries, parks, greenways, recreation facilities, or cultural organizations, as designated by the units of local government who are parties to the agreement.

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

- (1) Make rules and regulations not inconsistent with this act for its organization and internal management.



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- 1 (2) Employ persons deemed necessary to carry out functions and duties assigned  
2 to them by the Authority and to fix their compensation within the limit of  
3 available funds.
- 4 (3) To use officers, employees, agents, and facilities of the county or city on  
5 such basis as may be agreed upon.
- 6 (4) Appoint a full-time Director to serve at its pleasure. The Director is  
7 responsible to the Authority for the administration of all departments within  
8 the Authority. The Director shall appoint, suspend, or remove all Authority  
9 employees. The Director shall make his or her appointments, suspensions,  
10 and removals in accordance with any general personnel rules, regulations,  
11 policies, or ordinances that the Authority may adopt.
- 12 (5) Acquire, maintain, and operate any buildings, structures, and facilities as  
13 may be necessary or convenient for the operations of the Authority.
- 14 (6) Establish rules governing the use of the cultural and recreational facilities  
15 under the jurisdiction of the Authority.
- 16 (7) Enter into contracts and leases for facilities and services.
- 17 (8) Acquire and dispose of real and personal property under the jurisdiction of  
18 the Authority with the approval of the county.
- 19 (9) Surrender to the county any property no longer required by the Authority.
- 20 (10) Allocate funds for repairs, renovations, and improvements of real and  
21 personal property under the jurisdiction of the Authority.
- 22 (11) Solicit financial and material support from public and private sources.
- 23 (12) Receive public and private donations, appropriations, and grants.
- 24 (13) Prepare and submit an annual budget to the county in the same manner as  
25 other county and city departments, but the budget is subject to adoption only  
26 by the county.
- 27 (14) Make recommendations and an annual report to the participating units  
28 concerning the operation of the Authority and the status of cultural and  
29 recreational programs under the jurisdiction of the Authority.
- 30 (15) Make plans, surveys, and studies of libraries, parks, greenways, recreational  
31 facilities, and cultural organizations under the jurisdiction of the Authority  
32 and to prepare and make recommendations to the county in regard thereto.
- 33 (16) Retain and employ counsel, auditors, engineers, and private consultants on  
34 an annual salary contract basis or otherwise for rendering professional or  
35 technical services and advice.
- 36 (17) Sue and be sued.
- 37 (18) Have a seal.
- 38 (19) Do all things necessary or convenient to carry out the purposes provided for  
39 in this act and for the exercise of the powers granted to the Authority.

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

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

4 **SECTION 5.** Fiscal accountability. – The Authority shall be fiscally accountable to  
5 the county, which has the authority to examine all records and accounts of the Authority at any  
6 time.

7 **SECTION 6.** Termination. – The county shall have the authority to terminate the  
8 existence of the Authority at any time by a majority vote of the governing boards of the county.  
9 In the event of termination, (i) all property and assets of the Authority which were conveyed to  
10 the Authority shall automatically become the property of the county which conveyed the asset  
11 to the Authority and (ii) the county units shall jointly succeed to all other rights, obligations,  
12 and liabilities of the Authority as provided by the agreement.

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

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