

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 234
PROPOSED COMMITTEE SUBSTITUTE H234-PCS40264-TU-3

Short Title: Reinstatement of Mountain Island Lake Marine Commission.

(Local)

Sponsors:

Referred to:

March 16, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE REINSTATEMENT OF THE MOUNTAIN ISLAND LAKE
3 MARINE COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 77-70 reads as rewritten:

6 **"§ 77-70. Definitions.**

7 For purposes of this Article:

- 8 (1) "Board" means the board of commissioners of one of the ~~three participating~~
9 counties.
- 10 (2) "Commission" means the Mountain Island Lake Marine Commission or its
11 governing board, as the case may be.
- 12 (3) "Commissioner" means a member of the governing board of the Mountain
13 Island Lake Marine Commission.
- 14 (4) "Joint resolution" means a resolution or ordinance substantially identical in
15 content adopted separately by the governing boards in ~~each of the three~~
16 ~~counties; the participating counties.~~
- 17 (5) "Mountain Island Lake" means the impounded body of water along the
18 Catawba River in the three counties extending from the Cowans Ford Dam
19 downstream to the Mountain Island Dam.
- 20 (5a) "Participating counties" means those of the three counties that have adopted
21 a resolution to participate in the Commission and have not withdrawn.
- 22 (6) "Shoreline area" means, except as modified by a joint resolution, the area
23 within the three counties lying within 1,000 feet of the full pond elevation
24 contour on Mountain Island Lake. In addition, the shoreline area includes all
25 islands within Mountain Island Lake and all peninsulas extending into the
26 waters of Mountain Island Lake.
- 27 (7) "Three counties" means Gaston, Lincoln, and Mecklenburg Counties.
- 28 (8) "Wildlife Commission" means the North Carolina Wildlife Resources
29 Commission."

30 **SECTION 2.** G.S. 77-71 reads as rewritten:

31 **"§ 77-71. Authority to create Commission; withdrawal from and dissolution of**
32 **Commission.**

33 (a) The ~~three participating~~ counties may by joint resolution create the Mountain Island
34 Lake Marine Commission. Upon its creation the Commission has the powers, duties, and
35 responsibilities conferred upon it by joint resolution, subject to the provisions of this Article.



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1 (b) The provisions of any joint resolution may be modified, amended, or rescinded by a
2 subsequent joint ~~resolution~~resolution made with the unanimous consent of the participating
3 counties.

4 (c) A county may unilaterally withdraw from participation as provided by any joint
5 resolution or the provisions of this Article, once the Commission has been created, and any
6 county may unilaterally withdraw from the Commission at the end of any budget period upon
7 90 days prior written notice. Upon the effectuation of the withdrawal, ~~the Commission is~~
8 ~~dissolved, and the Commission continues with the remaining participating counties, and any~~
9 ~~property of the withdrawing county shall be distributed as determined by all participating~~
10 ~~counties. Upon withdrawal of the final participating county, all property of the Commission~~
11 ~~must be distributed to or divided among the three counties and any other public agency or~~
12 ~~agencies serving the Mountain Island Lake area in a manner considered equitable by the~~
13 ~~Commission by resolution adopted by it prior to dissolution."~~

14 **SECTION 3.** G.S. 77-72 reads as rewritten:

15 "**§ 77-72. Membership; terms.**

16 (a) Upon its creation, the Commission shall have a governing board of ~~seven. Except as~~
17 ~~otherwise provided for the initial appointees, each commissioner shall serve a three-year term.~~
18 ~~Upon creation of the Commission, the Boards of Commissioners of Gaston County and~~
19 ~~Mecklenburg County shall appoint three commissioners each, and the Board of Commissioners~~
20 ~~of Lincoln County shall appoint one commissioner. Of the initial appointees: seven members, to~~
21 ~~be appointed as determined by a joint resolution of the participating counties, subject to the~~
22 ~~provisions of this section.~~

23 (1) ~~One commissioner appointed by Gaston County and one member appointed~~
24 ~~by Mecklenburg County shall serve one-year terms;~~

25 (2) ~~One commissioner appointed by Gaston County and one member appointed~~
26 ~~by Mecklenburg County shall serve two-year terms; and~~

27 (3) ~~One member appointed by Gaston County, one member appointed by~~
28 ~~Mecklenburg County, and the member appointed by Lincoln County shall~~
29 ~~serve three-year terms.~~

30 (b) Any commissioner who has served two consecutive terms, including any initial term
31 of less than three years, may not be reappointed to a third consecutive term. Such a member
32 may, however, be appointed to serve again after the expiration of the term of the member's
33 successor.

34 (c) On the death of a commissioner, resignation, incapacity, or inability to serve, as
35 determined by the board appointing that commissioner, or removal of the commissioner for
36 cause, as determined by the board appointing that commissioner, the board affected may
37 appoint another commissioner to fill the unexpired term."

38 **SECTION 4.** G.S. 77-73 reads as rewritten:

39 "**§ 77-73. Compensation; budget.**

40 The joint resolution of the ~~three~~participating counties shall state the terms relating to
41 compensation to commissioners, if any, compensation of consultants and staff members
42 employed by the Commission, and reimbursement of expenses incurred by commissioners,
43 consultants, and employees. The Commission shall be governed by those budgetary and
44 accounting procedures specified by joint resolution."

45 **SECTION 5.** G.S. 77-74 reads as rewritten:

46 "**§ 77-74. Organization and meetings.**

47 Upon creation of the Commission, its governing board shall meet at a time and place agreed
48 upon by the boards of the ~~three~~participating counties concerned. The commissioners shall elect
49 a chairman and officers as they choose. All officers shall serve one-year terms. The governing
50 board shall adopt rules and regulations as it deems necessary, not inconsistent with the
51 provisions of this Article or of any joint resolution, for the proper discharge of its duties and for

1 the governance of the Commission. In order to conduct business, a quorum must be present.
2 The chairman may adopt those committees as authorized by those rules and regulations. The
3 Commission shall meet regularly at times and places as specified in its rules and regulations or
4 in any joint resolution. However, meetings of the Commission must be held in all ~~three~~
5 participating counties on a rotating basis so that an equal number of meetings is held in each
6 county. Special meetings may be called as specified in the rules and regulations. The provisions
7 of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes, shall apply."

8 **SECTION 6.** G.S. 77-75 reads as rewritten:

9 **"§ 77-75. Powers of the Commission; administration and funding.**

10 (a) Within the limits of funds available to it and subject to the provisions of this Article
11 and of any joint resolution, the Commission may:

- 12 (1) Hire and fix the compensation of permanent and temporary employees and
13 staff as it may deem necessary in carrying out its duties;
- 14 (2) Contract with consultants for services it requires;
- 15 (3) Contract with the State of North Carolina or the federal government, or any
16 agency or department, or subdivision of them, for property or services as
17 may be provided to or by these agencies and carry out the provisions of these
18 contracts;
- 19 (4) Contract with persons, firms, and corporations generally as to all matters
20 over which it has a proper concern, and carry out the provisions of contracts;
- 21 (5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space
22 for its employees and staff, and lease, rent, purchase, or otherwise obtain
23 furniture, fixtures, vessels, vehicles, firearms, uniforms, and other supplies
24 and equipment necessary or desirable for carrying out the duties imposed in
25 or under the authority of this Article; and
- 26 (6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair,
27 and replace, either on its own or in cooperation with other public or private
28 agencies or individuals, any of the following: boat docks, navigation aids,
29 waterway markers, public information signs and notices, and other items of
30 real and personal property designed to enhance public safety in Mountain
31 Island Lake and its shoreline area, or protection of property in the shoreline
32 area subject however to Chapter 113 of the General Statutes and rules
33 promulgated under that Chapter.

34 (b) The Commission may accept, receive, and disburse in furtherance of its functions
35 any funds, grants, services, or property made available by the federal government or its
36 agencies or subdivisions, by the State of North Carolina or its agencies or subdivisions, or by
37 private and civic sources.

38 (c) The governing boards of the ~~three-participating~~ counties may appropriate funds to
39 the Commission out of surplus funds or funds derived from nontax sources. They may
40 appropriate funds out of tax revenues and may also levy annually property taxes for the
41 payments of such appropriation as a special purpose, in addition to any allowed by the
42 Constitution, or as provided by G.S. 153A-149.

43 (d) The Commission shall be subject to those audit requirements as may be specified in
44 any joint resolution.

45 (e) In carrying out its duties and either in addition to or in lieu of exercising various
46 provisions of the above authorization, the Commission may, with the agreement of the
47 governing board of the county concerned, utilize personnel and property of or assign
48 responsibilities to any officer or employee of any of the ~~three-participating~~ counties. Such
49 contribution in kind, if substantial, may with the agreement of ~~the-any other two-participating~~
50 counties be deemed to substitute in whole or in part for the financial contribution required of
51 that county in support of the Commission.

1 (f) Unless otherwise specified by joint resolution, each of the ~~three-participating~~
2 counties shall annually contribute an equal financial contribution to the Commission in an
3 amount appropriate to support the activities of the Commission in carrying out its duties."

4 **SECTION 7.** G.S. 77-76(a) reads as rewritten:

5 "(a) A copy of the joint resolution creating the Commission and of any joint resolution
6 amending or repealing the joint resolution creating the Commission shall be filed with the
7 Executive Director of the Wildlife Commission. When the Executive Director receives
8 resolutions that are in substance identical from ~~all three the participating~~ counties concerned,
9 the Executive Director shall within 10 days so certify and distribute a certified single resolution
10 text to the following:

11 (1) The Secretary of State;

12 (2) The clerk to the governing board of each of the three counties;

13 (3) The clerks of Superior Court of Lincoln, Mecklenburg, and Gaston Counties.
14 Upon request, the Executive Director also shall send a certified single copy
15 of any and all applicable joint resolutions to the chairman of the
16 Commission; and

17 (4) A newspaper of general circulation in the three counties."

18 **SECTION 8.** G.S. 77-78(c) reads as rewritten:

19 "(c) Unless a joint resolution provides otherwise, all courts in the ~~three-participating~~
20 counties within the limits of their subject matter jurisdiction shall have concurrent jurisdiction
21 as to all criminal offenses arising within the boundaries of Mountain Island Lake and its
22 shoreline area."

23 **SECTION 9.** This act applies only to Gaston, Lincoln, and Mecklenburg Counties.

24 **SECTION 10.** This act is effective when it becomes law.