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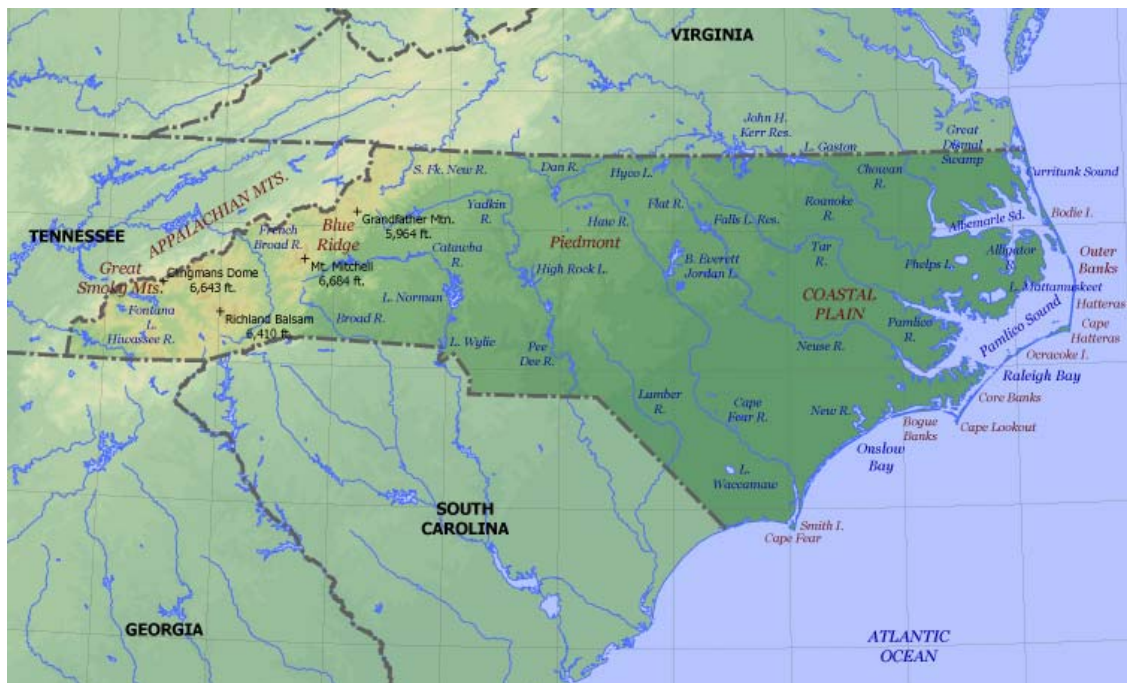
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Advisory Subcommittee on Offshore Energy Exploration**

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Interstate Cooperation



Jeff Hudson, Counsel to the Subcommittee

Interstate Compacts & Agencies

2003

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FOREWORD

The Council of State Governments has been involved with interstate compacts for many years. This document updates a 1998 publication. CSG updated the information in this publication from a survey it conducted in 2002 and compiled in 2002 and 2003. Some citations and information about interstate agencies and commissions were also updated via the Internet, by telephone, and from state statutory indexes in 2003. This edition lists compacts by subject and state and provides a brief description about the compacts, statutory citations, and the year that the member states joined the compacts. This edition also includes the titles, telephone numbers, facsimile numbers, and e-mail addresses of the agencies or state officials who administer the compacts, when that information was available and provided by the states. When a compact creates an interstate agency or other body, CSG provides the agency name, address, telephone and facsimile number, email address, and Web address. Readers will also notice some compact titles contain words in parentheses. This indicates the state statutes or their indexes listed derivatives of one title. Some compacts are even identified by two titles, one of which is in parentheses. This indicates a generic name for the compact plus the name of the compact as listed by the state or the code index. There are two reasons for this. First, the enabling legislation containing a compact may not have had the same title as the compact. Second, code publishers may have substituted an abbreviated or different title to satisfy their indexing requirements. In cases where there is only partial information (e.g., title and citations, but no description) CSG provides as much information as it could get during the course of the research.

Some compacts are listed as "may be dormant or defunct" because of the large number of compacts that are still on the books but have not been confirmed as dormant or defunct by the states.

INTRODUCTION

The Nature of Interstate Compacts

Compacts are agreements between two or more states that bind them to the compacts' provisions, just as a contract binds two or more parties in a business deal. As such, compacts are subject to the substantive principles of contract law and are protected by the constitutional prohibition against laws that impair the obligations of contracts (U.S. Constitution, Article I, Section 10).

That means that compacting states are bound to observe the terms of their agreements, even if those terms are inconsistent with other state laws. In short, compacts between states are somewhat like treaties between nations. Compacts have the force and effect of statutory law (whether enacted by statute or not) and they take precedence over conflicting state laws, regardless of when those laws are enacted.

However, unlike treaties, compacts are not dependent solely upon the good will of the parties. Once enacted, compacts may not be unilaterally renounced by a member state, except as provided by the compacts themselves. Moreover, Congress and the courts can compel compliance with the terms of interstate compacts. That's why compacts are considered the most effective means of ensuring interstate cooperation.

History of Interstate Compacts

Historically, compacts have been enacted for a variety of reasons, though they were seldom used until the 20th century. Between 1783 and 1920, states approved 36 compacts, most of which were used to settle boundary disputes. But in the last 75 years, more than 150 compacts have been created, most since the end of World War II.

Their purposes range from implementing common laws to exchanging information about common problems. They apply to everything from conservation and resource management to civil defense, emergency management, law enforcement, transportation, and taxes. Other compact subjects include education, energy, mental health, workers compensation and low-level radioactive waste.

Some compacts authorize the establishment of multistate regulatory bodies. The first and most famous of these is probably the New York-New Jersey Port Authority, which arose from a 1921 compact between New Jersey and New York. But other agreements are simply intended to establish uniform regulations without creating new agencies.

In recent years, compacts have grown in scope and number. Today, many are designed for regional or national participation, whereas the compacts of old were usually bistate agreements.

Creating Interstate Compacts

Compacts are essentially contracts between states. To be enforceable, they must satisfy the customary requirements for valid contracts, including the notions of offer and acceptance.

An offer is made when one state, usually by statute, adopts the terms of a compact requiring approval by one or more other states to become effective. Other states accept the offer by adopting identical compact language. Once the required number of states has adopted the pact, the "contract" between them is valid and becomes effective as provided. The only other potential requirement is congressional consent.

Determining Whether Congressional Consent is Required

Article I, Section 10 of the U.S. Constitution provides in part that "no state shall, without the consent of Congress, enter into any agreement or compact with another state." Historically, this clause generally meant all compacts must receive congressional consent.

However, the purpose of this provision was not to inhibit the states' ability to act in concert with each other. In fact, by the time the Constitution was drafted, the states were already accustomed to resolving disputes and addressing problems through interstate compacts and agreements. The purpose of the compact clause was simply to protect the pre-eminence of the new national government by preventing the states from infringing upon federal authority or altering the federal balance of power by compact.

Accordingly, the Supreme Court indicated more than 100 years ago in *Virginia v. Tennessee*, 148 U.S. 503 (1893) that not all compacts require Congressional approval. Today, it is well established that only those compacts that affect a power delegated to the federal government or alter the political balance within the federal system, require the consent of Congress.

Whether or not a proposed compact falls within one of these categories ultimately depends upon the purpose and effect of its terms. Compacts that potentially alter the balance within the federal system, and therefore require congressional consent, include boundary settlements and other pacts that arguably have a discriminatory impact against non-party states. For example, a river basin agreement between two or more states that might affect the water rights of non-party states would surely require congressional approval. Determining whether a compact affects federal powers is more difficult. Generally, any compact that touches on an area of mutual state-federal concern, or threatens to interfere with the doctrine of federal preemption, may be said to require congressional consent.

By example, it is almost easier to identify agreements that do not require congressional consent. Included among these are compacts concerning matters in which state authority is clearly pre-eminent. Education is one such area. Compacts designed to facilitate interstate communication or promote cooperative studies also do not usually require congressional consent, but those that impose more substantive obligations often do.

Obtaining Congressional Consent

Fortunately, the consent requirement is not particularly burdensome. Though usually satisfied by means of a congressional resolution granting the states the authority to create a compact, the Constitution specifies neither the means nor the timing of the required consent. Over the years, the Supreme Court has held that congressional consent may be expressed or implied and may be obtained either before or after a compact is enacted.

Congressional consent may also be conditional, limited, or temporary, and is always subject to modification or repeal, even if this right is not expressly reserved when the consent is initially given. Thus, whether a compact requires consent or not, and regardless of the form that consent may take, no compact is immune from future invalidation by Act of Congress. Therefore, express congressional consent is sometimes considered desirable, even if it isn't strictly required at the time the compact is created.

Amending and Enforcing Compacts

Once established, compacts can only be amended or terminated in accordance with the instruments themselves, or by mutual consent of the members by adopting identical substantive language. In other words, amending compacts requires the same process that is used to create them unless the compacts themselves specify other methods or mechanisms.

A violation of compact terms, like a breach of contract, is subject to judicial remedy. Since compacts are agreements between states, the U.S. Supreme Court is the usual forum for the resolution of disputes between member states. However, compacts can, and frequently do, include provisions to resolve disputes through arbitration or other means.

Other Compact Components

Typical compact language might include any or all of the following: a statement of purpose; a list of goals and objectives; a description of functions, powers and duties; substantive regulations; provisions for an administrative structure or an independent agency; financial participation requirements (e.g., dues); enforcement and construction guidelines; and other provisions governing entry into force, amendments, severability, withdrawal and termination. The specifics can vary.

Timeframe Enacting Compacts

Compacts are not always complicated, but they take time, especially if their subject matter is controversial.

A study of 65 interstate compacts conducted in the early 1960s indicated that the average amount of time required to launch a new compact was almost five years. But that study was admittedly skewed by the unusually long time required for the approval of several compacts that dealt with controversial natural resource issues. In fact, the average time required to enact 19 compacts covering river management and water rights was almost nine years.

Without these extremes, the prospects appear more manageable. In recent years, there have been some remarkable success stories. For example, in December 1989, a committee of the Midwestern Legislative Conference approved draft language for the *Midwestern Higher Education Compact* and began circulating it to lawmakers in the twelve Midwestern states that were eligible to participate. Just 13 months later, the compact became effective.

Conclusion

With a few exceptions, interstate compacts have served as useful tools in helping states deal with interstate, regional and multistate issues. They are also an attractive alternative to federal intervention and regulation since they offer the states an effective and enforceable means of addressing common problems without relinquishing authority to Congress.

OVERVIEW

General Purposes of Compacts

- Establish a formal, legal relationship between states to address common problems or promote a common agenda (e.g., the *Emergency Management Assistance Compact* and the *Interstate Compact on Agricultural Grain Marketing*).
- Create independent, multistate governmental authorities (e.g., commissions) which can address issues more effectively than a state agency acting independently, or when no state has the authority to act unilaterally (e.g., the *New York - New Jersey Port Authority Compact* and the *Delaware River Basin Compact*).
- Establish uniform guidelines or procedures for agencies in the compact's member states (e.g., the *Interstate Compact for Adult Offender Supervision*).
- Create economies of scale (e.g., the *Western Higher Education Compact*).
- Comply with or result from federal law (e.g., the interstate low-level radioactive waste compacts).
- Retain state sovereignty or preclude federal regulatory action (e.g., the *Interstate Compact on Industrialized/Modular Buildings*).
- Promote regional interests (e.g., the Southern Growth Policies Board).
- Settle interstate disputes (e.g., state boundary compacts).

Typical Compact Components in Articles or Sections

- Title or enacting clause.
- Statement of purpose or policy.
- Definitions.
- Description of administrative authority.
- Procedures.
- State dues.
- Entry into force.
- Withdrawal or termination of membership.
- Construction and severability.

Common Criticisms

- Member states must forfeit individual sovereignty.
- Compacts can be exclusionary.
- Administrative authority may not be clearly defined.

Compacts in which North Carolina is Currently a Member

Mariah Matheson, Research Assistant for Environmental Issues

8/20/09

Atlantic States Marine Fisheries Compact and Commission – G.S. 113-251 through G.S. 113-258

Driver's License Compact – G.S. 20-4.21

Emergency Management Assistance Compact – G.S. 166A-40

Interstate Compact on Adoption and Medical Assistance – G.S. 7B-3900

Interstate Compact for Adult Offender Supervision – G.S. 148-65.4 (*Formerly the Interstate Compact for the Supervision of Parolees and Probationers – G.S. 148 65.5*)

Interstate Compact for Education – G.S. 115C-104

Interstate Compact on Educational Opportunity for Military Children – G.S. 115C-407.5

Interstate Compact for Juveniles – G.S. 7B-4000

Interstate Compact on Mental Health – G.S. 122C-361

Interstate Compact on Placement of Children – G.S. 7B-3800

Interstate Environmental Compact – G.S. 113A-23

Interstate Insurance Product Regulation Compact Act – G.S. 58-91-1

Interstate Library Compact – G.S. 125-12

Interstate Mining Compact – G.S. 74-37

Interstate Wildlife Violator Compact – G.S. 113-300.5

National Crime Prevention and Privacy Compact – G.S. 114-19.50

National Guard Mutual Assistance Compact – G.S. 127A-175

Nurse Licensure Compact- G.S. 90-171.80

Pest Control Compact – G.S. 106-65.55

Southeastern Interstate Forest Fire Protection Compact – G.S. 113-60.11

Southern Dairy Compact – G.S. 106-810

Southern Growth Policies Agreement – G.S. 143-490

Southern States Energy Compact – G.S. 104D-1

Tribal-State Gaming Compacts – G.S. 147-12(14)

Vehicle Equipment Safety Compact – G.S. 20-183.13

Virginia/North Carolina Interstate High Speed Rail Compact – G.S. 136-220

Southeast Interstate Low-Level Radioactive Waste Management Compact – G.S. 104F-1
(*Per S.L. 1997-357, North Carolina withdrew from the Compact*)

Atlantic States Marine Fisheries Compact and Commission

Article 19.

Atlantic States Marine Fisheries Compact and Commission.

§ 113-251. Definition of terms.

As used in this Article:

- (1) "Commission" means the Atlantic States Marine Fisheries Commission.
- (2) "Commissioner" means a member of the Atlantic States Marine Fisheries Commission.
- (3) "Compact" means the Atlantic States Marine Fisheries Compact.
- (4) "Fisheries Director" means the Director of the Division of Marine Fisheries of the Department of Environment and Natural Resources. (1965, c. 957, s. 2; 1973, c. 1262, s. 28; 1977, c. 771, s. 4; 1989, c. 727, s. 109; 2003-92, s. 2.)

§ 113-252. Atlantic States Marine Fisheries Compact and Commission.

The Governor of this State is hereby authorized and directed to execute a compact on behalf of the State of North Carolina with any one or more of the states of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida and with such other states as may enter into the compact, legally joining therein in the form substantially as follows:

ATLANTIC STATES MARINE FISHERIES COMPACT

The contracting states solemnly agree:

Article I

The purpose of this Compact is to promote the better utilization of the fisheries, marine, shell and anadromous, of the Atlantic seaboard by the development of a joint program for the promotion and protection of such fisheries, and by the prevention of the physical waste of the fisheries from any cause. It is not the purpose of this Compact to authorize the states joining herein to limit the production of fish or fish products for the purpose of establishing or fixing the price thereof, or creating and perpetuating monopoly.

Article II

This agreement shall become operative immediately as to those states executing it whenever any two or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, North Carolina, Georgia and Florida have executed it in the form that is in accordance with the laws of the executing state and the Congress has given its consent. Any state contiguous with any of the aforementioned states and riparian upon waters frequented by anadromous fish, flowing into waters under the jurisdiction of any of the aforementioned states, may become a party hereto as hereinafter provided.

Article III

Each state joining herein shall appoint three representatives to a commission hereby constituted and designated as the Atlantic States Marine Fisheries Commission. One shall be the executive officer of the administrative agency of the state charged with the conservation of the fisheries resources to which this compact pertains. The second shall be a member of the legislature appointed by the Governor. The third shall be a citizen who has knowledge of and interest in marine fisheries issues, appointed by the Governor. This Commission shall be a body corporate, with the powers and duties set forth herein.

Article IV

The duty of the said Commission shall be to make inquiry and ascertain from time to time such methods, practices, circumstances and conditions as may be disclosed for bringing about the conservation and the prevention of the depletion and physical waste of the fisheries, marine, shell and anadromous, of the Atlantic seaboard. The Commission shall have power to recommend the coordination of the exercise of the police powers of the several states within their respective jurisdictions to promote the preservation of those fisheries and their protection against overfishing, waste, depletion or any abuse whatsoever and to assure a continuing yield from the fisheries resources of the aforementioned states.

To that end the Commission shall draft and, after consultation with the advisory committee hereinafter authorized, recommend to the governors and legislatures of the various signatory states legislation dealing with the conservation of the marine, shell and anadromous fisheries of the Atlantic seaboard. The Commission shall more than one month prior to any regular meeting of the legislature in any signatory state, present to the governor of the state its recommendations relating to enactments to be made by the legislature of that state in furthering the intents and purposes of this Compact.

The Commission shall consult with and advise the pertinent administrative agencies in the states party hereto with regard to problems connected with the fisheries and recommend the adoption of such regulations as it deems advisable.

The Commission shall have power to recommend to the states party hereto the stocking of the waters of such states with fish and fish eggs, or joint stocking by some or all of the states party hereto, and when two or more of the states shall jointly stock waters the Commission shall act as the coordinating agency for such stocking.

Article V

The Commission shall elect from its number a chairman and a vice-chairman and shall appoint and at its pleasure remove or discharge such officers and employees as may be required to carry the provisions of this Compact into effect, and shall fix and determine their duties, qualifications and compensation. Said Commission shall adopt rules and regulations for the conduct of its business. It may establish and maintain one or more offices for the transaction of its business and may meet at any time or place but must meet at least once a year.

Article VI

No action shall be taken by the Commission in regard to its general affairs except by the affirmative vote of a majority of the whole number of compacting states present at any meeting. No recommendation shall be made by the Commission in regard to any species of fish except by the affirmative vote of a majority of the compacting states which have an interest in such species. The Commission shall define what shall be an interest.

Article VII

The Fish and Wildlife Service of the Department of the Interior of the government of the United States shall act as the primary research agency of the Atlantic States Marine Fisheries Commission, cooperating with the research agencies in each state for that purpose. Representatives of the said Fish and Wildlife Service shall attend the meetings of the Commission.

An advisory committee to be representative of the commercial fishermen and the saltwater anglers and such other interests of each state as the Commission deems advisable shall be established by the Commission as soon as practicable for the purpose of advising the Commission upon such recommendations as it may desire to make.

Article VIII

When any state other than those named specifically in Article II of this Compact shall become a party thereto for the purpose of conserving its anadromous fish in accordance with the provisions of Article II the participation of such state in the action of the Commission shall be limited to such species of anadromous fish.

Article IX

Nothing in this Compact shall be construed to limit the powers of any signatory state or to repeal or prevent the enactment of any legislation or the enforcement of any requirement by any signatory state imposing additional conditions and restrictions to conserve its fisheries.

Article X

Continued absence of representation or of any representative on the Commission from any state party hereto shall be brought to the attention of the governor thereof.

Article XI

The states party hereto agree to make annual appropriations to the support of the Commission in proportion to the primary market value of the products of their fisheries, exclusive of cod and haddock, as recorded in the most recently published reports of the Fish and Wildlife Service of the United States Department of the Interior, provided no state shall contribute less than two hundred dollars (\$200.00) per annum and the annual contribution of each state above the minimum shall be figured to the nearest one hundred dollars (\$100.00).

The compacting states agree to appropriate initially the annual amounts scheduled below, which amounts are calculated in the manner set forth herein, on the basis of the catch record of 1938. Subsequent budgets shall be recommended by a majority of the

Commission and the cost thereof allocated equitably among the states in accordance with their respective interests and submitted to the compacting states.

Schedule of Initial Annual State Contributions

Maine	\$ 700
New Hampshire	200
Massachusetts	2300
Rhode Island	300
Connecticut	400
New York	1300
New Jersey	800
Delaware	200
Maryland	700
Virginia	1300
North Carolina	600
South Carolina	200
Georgia	200
Florida	1500

Article XII

This Compact shall continue in force and remain binding upon each compacting state until renounced by it. Renunciation of this Compact must be preceded by sending six months' notice in writing of intention to withdraw from the Compact to the other states party hereto. (1949, c. 1086, s. 1; 1965, c. 957, s. 18; 2003-92, s. 3.)

§ 113-253. Amendment to Compact to establish joint regulation of specific fisheries.

The Governor is authorized to execute on behalf of the State of North Carolina an amendment to the Compact set out in G.S. 113-252 with any one or more of the states of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, Georgia, and Florida or such other states as may become party to that Compact for the purpose of permitting the states that ratify this amendment to establish joint regulation of specific fisheries common to those states through the Atlantic States Marine Fisheries Commission and their representatives on that body. Notice of intention to withdraw from this amendment shall be executed and transmitted by the Governor and shall be in accordance with Article XII of the Atlantic States Marine Fisheries Compact and shall be effective as to this State with those states which similarly ratify this amendment. This amendment shall take effect as to this State with respect to such other of the aforesaid states as take similar action.

Amendment No. 1 of the Atlantic States Marine Fisheries Compact

The states consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating states with respect to specific fisheries in which such states have a common interest. The representatives of such states on the Atlantic States Marine Fisheries Commission shall constitute a separate section of such Commission for the exercise of the additional powers so granted, provided that the states so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the states participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact. (1949, c. 1086, s. 2; 1965, c. 957, s. 18.)

§ 113-254. North Carolina members of Commission.

(a) In pursuance of Article III of the Compact, there shall be three commissioners from North Carolina. The first commissioner shall be the Fisheries Director, ex officio. The term of this commissioner shall terminate at the time the commissioner ceases to hold office as the Fisheries Director. The successor to this commissioner shall be the commissioner's successor as Fisheries Director. The second commissioner shall be a legislator appointed by the Governor. The term of this commissioner shall terminate at the time the commissioner ceases to hold legislative office. This commissioner's successor shall be appointed by the Governor. The third commissioner from the State of North Carolina shall be a citizen of the State with knowledge of and interest in marine fisheries issues appointed by the Governor. The term of this commissioner shall be three years. This commissioner may be reappointed for successive terms and shall hold office until the commissioner's successor is appointed and qualified. A vacancy occurring in the office of this commissioner for any reason or cause shall be filled by appointment by the Governor for the unexpired term.

(b) The Fisheries Director may delegate to any deputy or other subordinate of the Fisheries Director the power to be present, participate, and vote as the Fisheries Director's representative or substitute at any meeting, hearing, or other proceeding of the Commission.

(c) Any commissioner may be removed from office by the Governor upon charges and after a hearing. (1949, c. 1086, s. 3; 1965, c. 957, s. 18; 1973, c. 1262, ss. 28, 86; 1977, c. 771, s. 4; 1987, c. 641, s. 9; 1989, c. 727, s. 110; 2003-92, s. 4.)

§ 113-255. Powers of Commission and commissioners.

There is hereby granted to the Commission and the commissioners thereof all the powers provided for in the said Compact and all the powers necessary or incidental to the carrying out of said Compact in every particular. All officers of the State of North Carolina are hereby authorized and directed to do all things falling within their respective provinces and jurisdiction necessary or incidental to the carrying out of said Compact in every particular; it being hereby declared to be the policy of the State of North Carolina to perform and carry out the said Compact and to accomplish the purposes thereof. All officers, bureaus, departments and persons of and in the State government or administration of the State of North Carolina are hereby authorized and directed at convenient times and upon request of the said Commission to furnish the said Commission with information and data possessed by them or any of them and to aid said Commission by loan of personnel or other means lying within their legal rights respectively. (1949, c. 1086, s. 4; 1965, c. 957, s. 18.)

§ 113-256. Powers herein granted to Commission are supplemental.

Any powers herein granted to the Commission shall be regarded as in aid of and supplemental to and in no case a limitation upon any of the powers vested in said Commission by other laws of the State of North Carolina or by the laws of the states of Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, South Carolina, Georgia and Florida or by the Congress or the terms of said Compact. (1949, c. 1086, s. 5; 1965, c. 957, s. 18.)

§ 113-257. Report of Commission to Governor and legislature; recommendations for legislative action; examination of accounts and books by Auditor.

The Commission shall keep accurate accounts of all receipts and disbursements and shall report to the Governor and the legislature of the State of North Carolina on or before the tenth day of December in each year, setting forth in detail the transactions conducted by it during the 12 months preceding December 1 of that year and shall make recommendations for any legislative action deemed by it advisable, including amendments to the statutes of the State of North Carolina which may be necessary to carry out the intent and purposes of the compact between the signatory states.

The Auditor of the State of North Carolina is hereby authorized and empowered from time to time to examine the accounts and books of the Commission, including its receipts, disbursements and such other items referring to its financial standing as such Auditor may deem proper and to report the results of such examination to the Governor of such State. (1949, c. 1086, s. 6; 1955, c. 236, s. 2; 1965, c. 957, s. 18.)

§ 113-258. Commission subject to provisions of State Budget Act.

The Atlantic States Marine Fisheries Commission of the State of North Carolina shall be subject to all the terms and provisions of the State Budget Act, Chapter 143C of the General Statutes of North Carolina.(1949, c. 1086, s. 7; 1955, c. 236, s. 1; 1965, c. 957, s. 18; 2006-203, s. 27.)

Roanoke River Basin Bi-State Commission

Article 7.

Roanoke River Basin Bi-State Commission; Roanoke River Basin Advisory Committee.

Part 1. Roanoke River Basin Bi-State Commission.

§ 77-90. Definitions.

The following definitions apply in this Article:

- (1) "Commission" means the Roanoke River Basin Bi-State Commission.
- (2) "Roanoke River Basin" or "Basin" means that land area designated as the Roanoke River Basin by the North Carolina Department of Environment and Natural Resources pursuant to G.S. 143-215.8B and the Virginia State Water Control Board pursuant to Code of Virginia § 62.1-44.38. (2002-177, s. 1.)

§ 77-91. Commission established; purposes.

There is established the Roanoke River Basin Bi-State Commission. The Commission shall be composed of members from the State of North Carolina and the Commonwealth of Virginia. The purposes of the Commission shall be to:

- (1) Provide guidance and make recommendations to local, state, and federal legislative and administrative bodies, and to others as it deems necessary and appropriate, for the use, stewardship, and enhancement of the water, and other natural resources, for all citizens within the Basin.
- (2) Provide a forum for discussion of issues affecting the Basin's water quantity and water quality and issues affecting other natural resources.
- (3) Promote communication, coordination, and education among stakeholders within the Basin.
- (4) Identify problems and recommend appropriate solutions.
- (5) Undertake studies and prepare, publish, and disseminate information through reports, and in other forms, related to water quantity, water quality, and other natural resources of the Basin. (2002-177, s. 1.)

§ 77-92. Membership; terms of office; eligibility for appointment.

(a) The Roanoke River Basin Bi-State Commission shall consist of 18 members with each state appointing nine members. The North Carolina delegation to the Commission shall consist of the six members of the General Assembly of North Carolina appointed to the North Carolina Roanoke River Basin Advisory Committee and three nonlegislative members of the North Carolina Roanoke River Basin Advisory Committee, established pursuant to G.S. 77-103, who represent different geographical areas of the North Carolina portion of the Basin and who reside within the Basin's watershed, to be appointed by the Governor of North Carolina. The Virginia delegation to the Commission shall be appointed as determined by the Commonwealth of Virginia.

(b) Members of the North Carolina House of Representatives, the North Carolina Senate, the Virginia House of Delegates, the Virginia Senate, and federal legislators, who have not been appointed to the Commission and whose districts include any portion of the Basin, may serve as nonvoting ex officio members of the Commission.

(c) Except as provided in this subsection, members of the North Carolina delegation to the Commission shall serve at the pleasure of the Governor of North Carolina. The Governor of North Carolina may not remove a legislative member of the North Carolina delegation to the Commission during the legislator's term of office, except that the Governor may remove any member of the North Carolina delegation to the Commission for misfeasance, malfeasance, or nonfeasance as provided in G.S. 143B-13. A legislative member of the North Carolina delegation to the Commission who ceases to be a member of the General Assembly of North Carolina shall cease to be a member of the Commission. The terms of members of the Virginia delegation to the Commission shall be determined by the Commonwealth of Virginia.

(d) Each state's delegation to the Commission may meet separately to discuss Basin-related issues affecting their state and may report their findings independently of the Commission. (2002-177, s. 1; 2005-37, ss. 2, 3.)

§ 77-93. Powers and duties.

- (a) The Commission shall have no regulatory authority.
- (b) To perform its duties and objectives, the Commission shall have the following powers:
 - (1) To develop rules and procedures for the conduct of its business or as may be necessary to perform its duties and carry out its objectives, including, but not limited to, selecting a chairman and vice-chairman, rotating chairmanships, calling meetings, and establishing voting procedures. Rules and procedures developed pursuant to this subdivision shall be effective upon an affirmative vote by a majority of the Commission members.
 - (2) To establish standing and ad hoc advisory committees pursuant to G.S. 77-94 in addition to the North Carolina Roanoke River Basin Advisory Committee established pursuant to Part 2 of this Article and the Virginia Roanoke River Basin Advisory Committee established pursuant to Chapter 5.4 of Title 62.1 of the Code of Virginia, which shall be constituted in a manner to ensure a balance between recognized interests. The Commission shall determine the purpose of each advisory committee.
 - (3) To seek, apply for, accept, and expend gifts, grants and donations, services, and other aid from public or private sources. With the exception of funds provided by the planning district commissions, councils of governments, and commissions and funds appropriated by the General Assemblies of Virginia and North Carolina, the Commission may accept funds only after an affirmative vote by a majority of the members of the Commission or by following any other procedures that are established by the Commission for the conduct of its business.
 - (4) To establish a nonprofit corporation to assist in the details of administering its affairs and in raising funds.
 - (5) To enter into contracts and execute all instruments necessary or appropriate.
 - (6) To perform any lawful acts necessary or appropriate for the furtherance of its work. (2002-177, s. 1.)

§ 77-94. Standing and ad hoc committees.

To facilitate communication among stakeholders in the Basin, and to maximize participation by all interested parties, the Commission shall establish both standing and ad hoc committees. The Commission shall appoint the members of the standing and ad hoc committees in accordance with guidelines adopted by the Commission. The standing committees shall include all of the following:

- (1) Permit holders. – The Commission shall identify those entities that hold permits issued by a federal, state, or local regulatory agency pertaining to the water of the Basin. The entities may recommend representatives to be appointed to the committees by the Commission.
- (2) Roanoke River Basin interest groups. – The Commission shall identify interest groups that may recommend representatives to be appointed to the committees by the Commission.
- (3) Public officials and governmental entities. – The committees shall be composed of representatives of each county, city, and town located completely or partially within the Basin. Also, other governmental entities that the Commission deems appropriate may recommend one member to be appointed to the committees by the Commission. The committees may also include the United States Senators from North Carolina and Virginia or their designees, and any member of the United States House of Representatives or the Representative's designee, whose district includes any portion of the Basin, if the members elect to serve on the committees.
- (4) Agriculture, forestry, and soil and water conservation districts. – The Commission shall identify persons who represent agricultural and forestry interests throughout the Basin and representatives from the soil and water conservation districts within the Basin and shall appoint representatives from these groups to the committees. (2002-177, s. 1.)

§ 77-95. Staffing and support.

(a) The North Carolina Department of Environment and Natural Resources and the Virginia Department of Environmental Quality shall provide staff support to the Commission. Additional staff may be hired or contracted by the Commission through funds raised by or provided to it. The duties and compensation of any additional staff shall be determined and fixed by the Commission, within available resources.

(b) All agencies of the State of North Carolina and the Commonwealth of Virginia shall cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural Resources and the Virginia Secretary of Natural Resources or their designees shall each serve as the liaison between their respective state agencies and the Commission. (2002-177, s. 1.)

§ 77-96. Funding.

(a) The Commission shall annually adopt a budget that shall include the Commission's estimated expenses. Funding for the Commission shall be shared and apportioned between the State of North Carolina and the Commonwealth of Virginia. The appropriation of public funds to the Commission shall be provided through each state's regular process for appropriating public funds. The North Carolina councils of governments and commissions named in G.S. 77-103(b)(5) shall bear a proportion of North Carolina's share of the expenses, which may be in the form of in-kind contributions.

(b) The Commission shall designate a fiscal agent.

(c) The accounts and records of the Commission showing the receipt and disbursement of funds from whatever source derived shall be in the form that the North Carolina Auditor and the Virginia Auditor of Public Accounts prescribe, provided that the accounts shall correspond as nearly as possible to the accounts and records for such matters maintained by similar enterprises. The accounts and records of the Commission shall be subject to an annual audit by the North Carolina Auditor and the Virginia Auditor of Public Accounts or their legal representatives, and the costs of the audit services shall be borne by the Commission. The results of the audits shall be delivered to the Joint Legislative Commission on Governmental Operations of the General Assembly of North Carolina and as provided by the Commonwealth of Virginia. (2002-177, s. 1.)

§ 77-97. Compensation and expenses of Commission members.

(a) The appointed members of the North Carolina delegation to the Commission shall receive per diem, subsistence, and travel expenses as follows:

- (1) Commission members who are members of the General Assembly at the rate established in G.S. 120-3.1.
- (2) Commission members who are officials or employees of the State or of local government agencies at the rate established in G.S. 138-6.
- (3) All other Commission members at the rate established in G.S. 138-5.

(b) The members of the Virginia delegation to the Commission shall receive compensation as provided by the Commonwealth of Virginia.

(c) All expenses shall be paid from funds appropriated or otherwise available to the Commission. (2002-177, s. 1.)

§ 77-98. Annual report.

The Commission shall submit an annual report, including any recommendations, on or before 1 October of each year to the Governor of North Carolina, the Environmental Review Commission of the General Assembly of North Carolina, the Governor of Virginia, and the General Assembly of Virginia. (2002-177, s. 1; 2007-495, s. 22.)

§ 77-99. Termination.

The General Assembly of North Carolina may terminate the Commission by repealing this Part. The Commission shall terminate if the General Assembly of Virginia repeals the provisions of the Code of Virginia that are comparable to this Part. (2002-177, s. 1.)

Part 2. Roanoke River Basin Advisory Committee.

§ 77-103. Committee established; membership; terms; vacancies.

(a) The North Carolina Roanoke River Basin Advisory Committee is established as an advisory committee to the North Carolina delegation to the Roanoke River Basin Bi-State Commission. The purpose of the Advisory Committee is to assist the delegation in achieving the purposes of the Commission as set out in G.S. 77-91 and in fulfilling the powers and duties set out in G.S. 77-93.

(b) The Advisory Committee shall be composed of 21 members as follows:

- (1) Three members of the House of Representatives whose districts include a part of the North Carolina portion of the Basin, to be appointed by the Speaker of the House of Representatives.
- (2) Three members of the Senate whose districts include a part of the North Carolina portion of the Basin, to be appointed by the President Pro Tempore of the Senate.
- (3) The member of the United States House of Representatives who represents North Carolina Congressional District 1, if the Representative elects to serve on the Advisory Committee, or that Representative's designee.
- (4) The member of the United States House of Representatives who represents North Carolina Congressional District 13, if the Representative elects to serve on the Advisory Committee, or that Representative's designee.
- (5) Twelve persons who reside within the North Carolina portion of the Basin, who represent the diversity of interests in the Basin, and who have demonstrated interest, experience, or expertise in water-related Basin issues, appointed as provided in this subdivision. The chief executive officer of each of the following councils and commissions shall each appoint two persons, one of whom may be the chief executive officer and at least one of whom shall reside in the area served by the council or commission, as members of the Advisory Committee:
 - a. Piedmont Triad Council of Governments.
 - b. Northwest Piedmont Council of Governments.
 - c. Kerr-Tar Regional Council of Governments.
 - d. Upper Coastal Plain Council of Governments.
 - e. Mid-East Commission.
 - f. Albemarle Economic Development Commission.
- (6) The Secretary of Environment and Natural Resources or the Secretary's designee.

(c) The terms of each member of the Advisory Committee appointed as provided in subdivision (5) of subsection (b) of this section shall be two years. The term of one of these members shall expire on 1 January of even-numbered years, and the term of the other member shall expire on 1 January of odd-numbered years. A member who is

appointed pursuant to subdivision (5) of subsection (b) of this section who attends at least one-half of the meetings of the Advisory Committee held during the member's term may be reappointed to another term, but no member shall serve more than three consecutive terms. The terms of all other members of the Advisory Committee shall begin when the member is appointed and end when the member's term as Representative, Senator, United States Representative, or Secretary ends. An appointment to fill a vacancy on the Advisory Committee shall be for the unexpired balance of the term. A vacancy on the Advisory Committee shall be filled in the same manner as the original appointment. (2002-177, s. 1.)

§ 77-104. Cochairs; meetings.

The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one member of the Advisory Committee as Cochair. The Advisory Committee shall meet upon the call of the Cochairs. (2002-177, s. 1.)

§ 77-105. Expenses of members.

Members of the Advisory Committee shall receive no salary or per diem as a result of service on the Advisory Committee but shall receive necessary subsistence and travel expenses in accordance with the provisions of G.S. 120-3.1, 138-5, and 138-6, as applicable. (2002-177, s. 1.)

§ 77-106. Staffing; meeting facilities; assistance by agencies.

The Department of Environment and Natural Resources shall provide staffing and meeting facilities for the Advisory Committee. All agencies of the State shall cooperate with the Advisory Committee and, upon request, shall assist the Advisory Committee in fulfilling its responsibilities. (2002-177, s. 1.)

§ 143-215.22B. Roanoke River Basin water rights.

The State reserves and allocates to itself, as protector of the public interest, all rights in the water located in those portions of Kerr Lake and Lake Gaston that are in the State. (1995, c. 504, s. 1.)