

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 957
HOUSE BILL 1215

1 AN ACT AUTHORIZING THE ESTABLISHMENT OF A RECREATION DISTRICT
2 WITHIN BUNCOMBE COUNTY, THE LEVYING OF A RECREATION TAX AND
3 THE ISSUANCE OF BONDS IN BEHALF OF THE RECREATION DISTRICT.
4

5 The General Assembly of North Carolina do enact:
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7 **Section 1.** A petition signed by at least fifteen per cent (15%) of the resident
8 freeholders living within an area, which area is described in the petition and designated as
9 "Black Mountain-Swannanoa Recreation District", and which area may include all the territory
10 within Black Mountain-Swannanoa Township except the territory within the corporate limits of
11 the Town of Montreat, may be filed with the Board of County Commissioners of Buncombe
12 County requesting it to do one or both of the following things:

- 13 (1) Levy an annual tax in a stated amount of cents on each one hundred dollars
14 (\$100.00) of assessed valuation of the taxable property within the district for
15 the purpose of providing, conducting and maintaining a supervised
16 recreation system in said district.
- 17 (2) Issue bonds of the unit in behalf of the recreation district in the amount
18 specified in the petition and to levy a tax on all taxable property within the
19 district for the payment thereof, for the purpose of acquiring, improving and
20 equipping lands or buildings or both for parks, playgrounds, recreation
21 centers and other recreation facilities.

22 When the petition is filed the board of county commissioners shall cause notice to
23 be given by posting at the courthouse door, and at three public places in such proposed
24 recreation district, and by three weekly publications in a newspaper circulating in such
25 proposed recreation district, that on a date named in such notice, which shall not be earlier than
26 twenty days after the first posting and publication of such notice, it will hold a public hearing at
27 a designated place within the proposed recreation district, upon the question or questions
28 petitioned for and set forth in such notice, and that any taxpayer or other interested person may
29 appear and be heard at the time and place set forth in such notice At the time and place stated in
30 such notice the board shall hear all interested persons and may adjourn the hearing from time to
31 time. The board shall have the authority to modify or enlarge the area described in such
32 petition.

33 When the petition is filed, it shall be the duty of the board of county commissioners
34 to cause the question petitioned for to be submitted to the voters at a special election to be held
35 in the district within one hundred twenty (120) days from the date of filing.

36 **Sec. 2.** If said election is held pursuant to a petition requesting the levy of a tax for
37 recreation purposes, the form of the question, stated on the ballot, shall be substantially the
38 words: "For District Recreation Tax" and "Against District Recreation Tax". Such affirmative
39 and negative forms shall be printed upon one ballot, containing squares opposite the affirmative
40 and negative forms, in one of which squares the voter may make a cross (X) mark.

41 **Sec. 3.** If a majority of the qualified voters, voting at said election, shall vote "For
42 District Recreation Tax", then the board of county commissioners is authorized and directed, on
43 the basis of a budget submitted to the board by the Recreation District Commission, to levy and

1 collect a tax in said district in such amounts as it may deem necessary, not exceeding the
2 amount voted, on the one hundred dollars (\$100.00) valuation of property in said district from
3 year to year. At least once a month, the tax collector of the county shall deposit the proceeds of
4 such tax in a bank designated by the Recreation District Commission. The officer or officers
5 having charge or custody of the funds of the district shall require said bank to furnish security
6 for the protection of such deposits as provided for in G.S. 159-28. Withdrawals from such
7 account shall be made by vouchers signed by the chairman and the treasurer of the Recreation
8 District Commission for the purposes of establishing and conducting of a system of supervised
9 recreation for such district; the acquisition and improvement of any lands, buildings, or
10 equipment; the construction, operation, equipping and maintaining of parks, playgrounds,
11 recreation centers and recreation facilities, and all buildings and structures necessary or useful
12 in connection therewith.

13 **Sec. 4.** If said election is held pursuant to a petition requesting a bond issue, then all
14 proceedings relating thereto and all notices shall be performed and given in accordance with the
15 County Finance Act.

16 **Sec. 5.** The board of county commissioners is hereby authorized and directed to
17 levy annually a special tax, ad valorem, on all taxable property in the district in which the
18 election was held, sufficient to pay the principal and interest of the bonds as such principal and
19 interest become due. Such special tax shall be in addition to all other taxes authorized to be
20 levied in such district. Except as otherwise herein provided said tax shall be levied and
21 collected in the same manner as other taxes of the county. The county authorities shall apply
22 said tax solely to the payment of principal and interest of such bonds.

23 **Sec. 6.** The proceeds of the special tax or bonds herein authorized shall be
24 administered as provided in Section 3 by a Recreation District Commission to be known as the
25 "Black Mountain-Swannanoa Recreation District Commission". The commission shall be
26 vested with the authority to provide, maintain, conduct and operate the recreation system within
27 said district with authority to employ directors, supervisors, and play leaders and such other
28 officers or employees as may be deemed best within the budget provided. The commission
29 shall have the power and authority to accept any gift, grant, lease, loan, devise or bequest of
30 money, lands, buildings, or other personal property or any donation to be applied, principal or
31 income for either temporary, immediate or permanent recreational use. Lands or devises, gifts
32 or bequests may be accepted and held subject to the terms under which such land or devise, gift
33 or bequest is made, given or received.

34 **Sec. 7.** If a majority of the qualified voters voting at any special election provided
35 for in this Act shall vote in the affirmative, then the Black Mountain-Swannanoa Recreation
36 District shall be in existence, have legal status, be a legal entity, and shall be subject to all the
37 legal powers, duties and obligations and shall exercise all of the authority given or conferred by
38 this Act, and the appointing authorities named in this Act shall proceed to appoint a
39 commission to act as the governing authority of said recreation district in accordance with the
40 provisions of Section 8 of this Act. The said commission may pass a resolution, fixing or
41 designating its title or name to be used in the administration of all of its affairs and business.

42 **Sec. 8.** The commission shall consist of five or more members as determined by the
43 board of county commissioners. Two of the members shall be appointed by the governing body
44 of any city or town included within said district, and the remaining member or members shall
45 be appointed by the board of county commissioners. At least one-third (1/3) of the members
46 shall serve for a term of one year, at least one-third (1/3) of the members for a term of two
47 years and the remainder for a term of three years. The board of county commissioners shall
48 designate the original terms of the members. Upon the expiration of their original terms of
49 office, each succeeding term shall be for three years and until their successors qualify for
50 office. Vacancies on the commission shall be filled for the unexpired term by appointment of
51 the governing body of the city, town or county which made the original appointment. The

members shall serve without compensation. The recreation commission at its first meeting shall appoint a chairman, a treasurer, and such other officers as may be deemed proper for the conduct of its business and shall adopt rules and regulations to govern its procedures, and may adopt rules and regulations from time to time for the purpose of governing the use of parks, playgrounds, recreation centers and recreation facilities. The treasurer shall be required to furnish bond in some surety company authorized to do business in North Carolina, in an amount to be fixed by the Recreation District Commission, which bond shall be approved by the Recreation District Commission and shall be conditioned upon the true accounting for all funds which may come into his hands as such treasurer.

Sec. 9. The board of commissioners of the county shall order the county board of elections to conduct the election so called as provided in Section 1, which said board of elections shall provide one or more polling places in said district, shall provide for a registrar or registrars and judges of election at said voting places, shall provide for the registration of all qualified voters living in said district, shall cause to be prepared the necessary ballots for voting at said election, shall fix the time and place for holding the same, and shall conduct said election in every respect according to the provisions of the laws governing general elections so far as they may be applicable. The costs of holding the election shall be paid by the county.

Sec. 10. At the close of the polls in any election provided for in this Act, the election officers shall count the votes and make returns thereof to the county board of elections which board shall, as soon as practicable after the election, judicially pass upon the returns and judicially determine and declare the results of such election. The returns shall be made in duplicate, one copy of which shall be delivered to the county board of elections and the other filed with the Clerk of the Superior Court of the county. The county board of elections shall prepare a statement showing the number of votes cast for and against the bonds, and declaring the result of the election, which statement shall be signed by the chairman of the board and attested by the clerk, who shall transmit it to the board of county commissioners who shall record it in the minutes of the board and file the original in his office and publish it once in a newspaper published or circulating in such district.

Sec. 11. No right of action or defense founded upon the invalidity of such election or the invalidity of any proceedings or steps taken in the creation of such district shall be asserted, nor shall the validity of such election or the validity of the creation of such district, or the right or duty to levy a sufficient tax for the payment of the principal and interest of such bonds, be open to question in any court upon any ground whatever, except in an action or proceeding commenced within thirty (30) days after the publication of such statement of results as provided in the preceding Section.

Sec. 12. The powers conferred by this Act shall be regarded as supplemental and in addition to powers conferred by other laws and shall not supplant or repeal any existing powers for the issuance of bonds, or any provisions of law for the payment of bonds issued under such powers, or for the custody of moneys provided for such payment.

Sec. 13. This Act shall constitute full authority for the things herein authorized and no proceedings, publications, notices, consents or approvals shall be required for the doing of the things herein authorized, except such as are herein prescribed and required, and except that the provisions of the Local Government Act and the County Finance Act shall be applicable to any bonds issued under this Act.

Sec. 14. This Act shall apply only to Buncombe County.

Sec. 15. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 16. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of June, 1969.