

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 355
SENATE BILL 724

AN ACT TO ESTABLISH THE HIGH ROCK LAKE MARINE COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. Definitions. For purposes of this act:

- (1) "Boards" means the Boards of Commissioners of Davidson and Rowan Counties.
- (2) "Commission" means the High Rock Lake Marine Commission or its governing board, as the case may be.
- (3) "Commissioner" means a member of the governing board of the High Rock Lake Marine Commission.
- (4) "Two counties" means Davidson and Rowan Counties.
- (5) "Joint ordinance" means an ordinance substantially identical in content adopted separately by the board in each of the two counties.
- (6) High Rock Reservoir, known for purposes of this act as "High Rock Lake", means the impounded body of water along the Yadkin River in the two counties extending from High Rock Dam, located at mile 253 on the Yadkin River, upstream approximately 19 miles.
- (7) "Shoreline area" means, except as restricted by a joint ordinance, the area within the two counties lying within 500 feet of the normal full pool elevation of 655 (Yadkin, Inc. datum) on High Rock Lake. In addition, the shoreline area shall include all islands within High Rock Lake and all peninsulas extending into the waters of High Rock Lake.
- (8) "Wildlife Commission" means the North Carolina Wildlife Resources Commission.

Sec. 2. Creation of Commission authorized. The two counties may by joint ordinance create the High Rock Lake Marine Commission. The Boards shall hold a public hearing on the joint ordinance to create the Commission. The location of the public hearing shall be determined by the Boards and established by resolution. The Boards shall cause notice of the hearing to be published once a week for two successive calendar weeks in a newspaper of general circulation in each county. The notice shall be published the first time not less than 10 days nor more than 25 days before the date fixed for the hearing. Upon its creation the Commission shall enjoy the powers and have the duties and responsibilities conferred upon it by joint ordinance, subject to the provisions of this act and the laws of the State of North Carolina. The provisions of any joint ordinance may be modified, amended, or rescinded by a subsequent joint ordinance. A county may unilaterally withdraw from participation as required by any

joint ordinance or the provisions of this act, once the Commission has been created. Any county may unilaterally withdraw from the Commission at the end of its fiscal year, by written notification to the other county and the Commission of its intent to withdraw, with notification 90 days prior to the end of the fiscal year. Upon the effectuation of the withdrawal, the Commission is dissolved, and all property of the Commission shall be distributed to or divided among the two counties and any other public agency or agencies serving the High Rock Lake area in a manner considered equitable by the Commission by resolution adopted prior to dissolution.

Sec. 3. Terms of members. Upon its creation, the Commission shall have a governing board of nine commissioners. Except as otherwise provided for the first three-year period, each commissioner shall serve a three-year term, with commissioners to serve overlapping terms. Upon creation of the Commission, the Boards shall appoint four commissioners each. Another alternating commissioner shall serve two-year terms. This alternating commissioner shall initially be appointed by the Davidson County Board of Commissioners, then by the Rowan County Board of Commissioners, and thereafter shall alternate between the two Boards.

These appointees shall serve until December 31 following their appointment. Thereafter, appointments shall be made for terms beginning each January 1 by the respective Boards of the two counties as follows:

Initial appointments: Four commissioners from Davidson County, one appointed for a one-year term, one appointed for a two-year term, and two appointed for three-year terms; four commissioners from Rowan County, one appointed for a one-year term, two appointed for two-year terms, and one appointed for a three-year term. Subsequent appointees shall serve three-year terms. The alternating commissioner, to be initially appointed by Davidson County, shall initially serve a one-year term and thereafter serve a two-year term.

Sec. 4. Compensation; budgetary and accounting procedures. The joint ordinance shall state the terms relating to compensation to commissioners, if any, compensation of consultants and staff members employed by the Commission, and reimbursement of expenses incurred by commissioners, consultants, and employees. The Commission shall be governed by these budgetary and accounting procedures as may be specified by joint ordinance and the applicable laws of North Carolina.

Sec. 5. Organization and meetings. Upon creation of the Commission, its governing board shall meet at a time and place agreed upon by the Boards. The commissioners shall elect a chairman and such other officers as they may choose. All officers shall serve one-year terms. The governing board shall adopt such rules and regulations as it may consider necessary, not inconsistent with the provisions of this act or of any joint ordinance or the laws of the State of North Carolina, for the proper discharge of its duties and for the governance of the Commission. In order to conduct business, a quorum must be present. The chairman may appoint those committees as may be authorized by such rules and regulations. The Commission shall meet regularly at those times and places as may be specified in its rules and regulations or in any joint ordinance. However, meetings of the Commission shall be held in the two counties on a rotating basis so that an equal number of meetings is held in each county. Special

meetings may be called as specified in the rules and regulations. The provisions of the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes apply.

Sec. 6. Powers of Commission; administrative provision. (a) Within the limits of funds available to it and subject to the provisions of this act and of any joint ordinance the Commission may:

- (1) Hire and fix the compensation of permanent and temporary employees and staff as it may consider necessary in carrying out its duties;
- (2) Contract with consultants for such services as it may require;
- (3) Contract with the State of North Carolina or the federal government, or any agency or department or subdivision of them, for property or services as may be provided to or by these agencies, and carry out the provisions of such contracts;
- (4) Contract with persons, firms, and corporations generally as to all matters over which it has a proper concern, and carry out the provisions of such contracts;
- (5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space for its employees and staff, and lease, rent, purchase, or otherwise obtain furniture, fixtures, vehicles, uniforms, and other supplies and equipment necessary or desirable for carrying out the duties imposed in or under the authority of this act; and
- (6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair, and replace, either on its own or in cooperation with other public or private agencies or individuals, any of the following: boat docks, navigation aids, waterway markers, public information signs and notices, and other items of real and personal property designed to enhance public recreation, public safety in High Rock Lake and its shoreline area, or protection of property in the shoreline area, subject, however, to the provisions of Chapter 113 of the General Statutes and rules promulgated under that Chapter as to property within North Carolina.

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

(c) The Boards may appropriate funds to the Commission out of surplus funds or funds derived from nontax sources. They may appropriate funds out of tax revenues and may also levy annually taxes for the payment of such appropriation as a special purpose, in addition to any allowed by the North Carolina Constitution or as provided by G.S. 153A-149.

(d) The Commission shall be subject to such audit requirements as may be specified in any joint ordinance.

(e) In carrying out its duties, and either in addition to or in lieu of exercising various provisions of the above authorizations, the Commission may, with the agreement of the Board of Commissioners of the county concerned, utilize personnel and property of or assign responsibilities to any officer or employee of any of

the two counties. Such contribution in kind, if substantial, may with the agreement of the other county be considered to substitute in whole or in part for the financial contribution required of such county in support of the Commission.

(f) Unless otherwise specified by joint ordinance, each of the two counties shall annually contribute an equal financial contribution to the Commission in an amount appropriate to support the activities of the Commission in carrying out its duties.

Sec. 7. Filing and publication of joint ordinances. (a) A copy of the joint ordinance creating the Commission and of any joint ordinance amending or repealing the joint resolution creating the Commission shall be filed with the Executive Director of the Wildlife Commission. When the Executive Director receives ordinances that are in substance identical from the two counties concerned, the Executive Director shall, within 10 days, certify this fact and distribute a certified single ordinance text to the following:

- (1) The Secretary of State.
- (2) The clerk to the governing board of each of the two counties.
- (3) The clerk of superior court of Davidson and Rowan Counties. Upon request, the Executive Director shall also send a certified single copy of any and all applicable joint ordinances to the chairman of the Commission.
- (4) A newspaper of general circulation in the two counties.

(b) Unless a joint ordinance specifies a later date, it shall take effect when the Executive Director's certified text has been submitted to the Secretary of State for filing. Certifications of the Executive Director under the seal of the Commission as to the text or amended text of any joint ordinance and of the date or dates of submission to the Secretary of State shall be admissible in evidence in any court. Certifications by any clerk of superior court of the text of any certified ordinance filed with him by the Executive Director is admissible in evidence and the Executive Director's submission of the resolution for filing to the clerk shall constitute **prima facie** evidence that such resolution was on the date of submission also submitted for filing with the Secretary of State. Except for the certificate of a clerk as to receipt and date of submission, no evidence may be admitted in court concerning the submission of the certified text of any ordinance by the Executive Director to any person other than the Secretary of State.

Sec. 8. Regulatory authority. (a) Except as limited in subsection (b) below, by restrictions in any joint ordinance, and by other supervening provisions of law, the Commission may make regulations applicable to High Rock Lake and its shoreline area concerning all matters relating to or affecting the use of High Rock Lake. These regulations may not conflict with or supersede provisions of general or special acts or of regulations of State agencies promulgated under the authority of general law. No regulations adopted under the provisions of this section may be adopted by the Commission except after public hearing, with publication of notice of the hearing in a newspaper of general circulation in the two counties at least 10 days before the hearing. In lieu of or in addition to passing regulations supplementary to State law and regulations concerning the operation of vessels on High Rock Lake, the Commission

may, after public notice, request that the Wildlife Resources Commission pass local regulations on this subject in accordance with the procedure established by appropriate State law.

(b) Violation of any regulation of the Commission commanding or prohibiting an act shall be a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00) or imprisonment for not more than 30 days.

(c) The regulations promulgated under this section take effect upon passage or upon such dates as may be stipulated in the regulations except that no regulation may be enforced unless adequate notice of the regulation has been posted in or on High Rock Lake or its shoreline area. Ordinances providing regulations for specific areas shall clearly establish the boundaries of the affected area by including a map of the regulated area, with the boundaries clearly drawn, or by setting out the boundaries in a written description, or by a combination of these techniques. Adequate notice as to a regulation affecting only a particular location shall be given in the following manner. When an ordinance providing regulations for a specific area is proposed, owners of the parcel of land involved as shown on the county tax listing, and the owners of land within 500 feet of the proposed area to be regulated, as shown on the county tax listing, shall be mailed a notice of the proposed classification by first-class mail at the last addresses listed for such owners on the county tax abstracts. This mailing requirement does not apply in regulations affecting the entire lake. Notice shall also be given by a sign, uniform waterway marker, posted notice, or other effective method of communicating the essential provisions of the regulation in the immediate vicinity of the location in question. Where a regulation applies generally as to High Rock Lake or its shoreline area, or both, there must be a posting of notices, signs, or markers communicating the essential provisions in at least three different places throughout the area, and it shall be printed in a newspaper of general circulation in the two counties.

(d) A copy of each regulation promulgated under this section must be filed by the Commission with the following persons:

- (1) The Secretary of State;
- (2) The clerks of superior court of Davidson and Rowan Counties;
- (3) The Executive Director of the Wildlife Resources Commission; and
- (4) The federal Energy Regulatory Commission licensee for High Rock Lake.

(e) Any official designated in subsection (d) above may issue certified copies of regulations filed with the official under the seal of the official's office. Such certified copies may be received in evidence in any proceeding.

(f) Publication and filing of regulations promulgated under this section as required above are for informational purposes and is not a prerequisite to their validity if they in fact have been duly promulgated, the public has been notified as to the substance of the regulations, a copy of the text of all regulations is in fact available to any person who may be affected, and no party to any proceeding has been prejudiced by any defect that may exist with respect to publication and filing. Rules and regulations promulgated by the Commission under the provisions of other sections of this act relating to internal

governance of the Commission need not be filed or published. Where posting of any sign, notice, or marker, or the making of other communication is essential to the validity of a regulation duly promulgated, it is presumed in any proceeding that prior notice was given and maintained and the burden lies upon the party asserting to the contrary to prove lack of adequate notice of any regulation.

Sec. 9. Enforcement. (a) Where a joint ordinance so provides, all law enforcement officers, or those officers as may be designated in the joint ordinance, with territorial jurisdiction as to any part of High Rock Lake or its shoreline area within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of High Rock Lake and its shoreline area. A certificate of training issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification for the purposes of this act.

(b) Every criminal violation shall be tried in the county where it occurred.

(c) Where a law enforcement officer with jurisdiction over any part of High Rock Lake or its shoreline area is performing duties relating to the enforcement of the laws on High Rock Lake or in its shoreline area, the officer shall have such extraterritorial jurisdiction as may be necessary to perform the officer's duties. These duties include investigations of crimes an officer reasonably believes have been, or are about to be, committed within the area in question. This includes traversing by reasonable routes from one portion of this area to another although across territory not within the boundaries of High Rock Lake and its shoreline area; conducting prisoners in custody to a court or to detention facilities as may be authorized by law, although this may involve going outside the area in question; execution of process connected with any criminal offense alleged to have been committed within the boundaries in question, except that this process may not be executed by virtue of this provision beyond the boundaries of the two counties. This also includes continuing pursuit of and arresting any violator or suspected violator as to which grounds for arrest arose within the area in question.

(d) Where law enforcement officers are given additional territorial jurisdiction under the provisions of this section, this shall be considered an extension of the duties of the office held and no officer shall take any additional oath or title of office.

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 16th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives