

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1997*

Short Title: Revise River Basin Advisory Commission. (Public)

Sponsors: Senators Swindell; and Jones.

Referred to: Agriculture/Environment/Natural Resources.

May 28, 2008

A BILL TO BE ENTITLED

AN ACT TO SIMPLIFY THE PROCESS BY WHICH THE NORTH CAROLINA MEMBERS OF THE ROANOKE RIVER BASIN ADVISORY COMMISSION ARE APPOINTED, AS RECOMMENDED BY THE ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Article 7 of Chapter 77 of the General Statutes is repealed.

SECTION 2. The title of Article 8 of Chapter 77 of the General Statutes reads as rewritten:

"Article 8.

"River Basins Advisory Commissions.

"Part 1. North Carolina/South Carolina River Basin Advisory Commissions."

SECTION 3. G.S. 77-110 reads as rewritten:

"§ 77-110. Definitions.

The following definitions apply in this ~~Article~~Part:

..."

SECTION 4. G.S. 77-111 reads as rewritten:

"§ 77-111. Commissions established; purposes.

There is established the Catawba/Wateree River Basin Advisory Commission and the Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be constituted as described in this ~~Article~~Part and there shall be a separate commission for each river basin. The commissions shall be permanent bodies composed of members from the State of North Carolina and the State of South Carolina. The purpose of each commission shall be to:

...."

SECTION 5. G.S. 77-118 reads as rewritten:

"§ 77-118. Termination.

The General Assembly of North Carolina may terminate the commissions by repealing this ~~Article~~Part. The commissions shall terminate if the General Assembly of

1 South Carolina repeals the provisions of the South Carolina Code of Laws that are
2 comparable to this ~~Article-Part.~~"

3 **SECTION 6.** Article 8 of Chapter 77 of the General Statutes is amended by
4 adding a new Part to read:

5 "Part 2. North Carolina/Virginia River Basin Advisory Commission.

6 **"§ 77-120. Definitions.**

7 The following definitions apply in this Part:

8 (1) "Commission" means the Roanoke River Basin Advisory Commission.

9 (2) "River basin" or "river basins" means that land area designated as the

10 Roanoke River Basin by the North Carolina Department of

11 Environment and Natural Resources pursuant to G.S. 143-215.8B and

12 the Virginia State Water Control Board pursuant to Code of Virginia

13 §62.1-44.38.

14 **"§ 77-121. Commission established; purposes.**

15 There is established the Roanoke River Basin Advisory Commission. The
16 commission shall be constituted as described in this Part. The commission shall be a
17 permanent body composed of members from the State of North Carolina and the
18 Commonwealth of Virginia. The purpose of the commission shall be to:

19 (1) Provide guidance and make recommendations to local, state, and
20 federal legislative and administrative bodies, and to others as it
21 considers necessary and appropriate, for the use, stewardship, and
22 enhancement of the water, and other natural resources, for all citizens
23 within the river basins.

24 (2) Provide a forum for discussion of issues affecting the river basin's
25 water quantity and water quality and issues affecting other natural
26 resources.

27 (3) Promote communication, coordination, and education among
28 stakeholders within the river basin.

29 (4) Identify problems and recommend appropriate solutions.

30 (5) Undertake studies related to water quantity, water quality, and other
31 natural resources in the river basin based on existing data available
32 from agencies located in either state.

33 (6) Determine the optimum approach to comprehensively and
34 collaboratively provide recommendations for integrated river
35 management including, but not limited to, the total assimilative
36 capacity of the river basin.

37 **"§ 77-122. Powers and duties.**

38 (a) The authority granted to the commission shall be advisory in nature and in no
39 way shall the commission be construed to have any regulatory authority.

40 (b) The commission shall not have any authority to obligate or otherwise bind the
41 State of North Carolina, the Commonwealth of Virginia, or any agency or subdivision
42 of either state.

43 (c) To achieve its purposes, the commission shall have all of the following
44 powers and duties:

- 1 (1) To develop rules and procedures for the conduct of its business or as
2 may be necessary to perform its duties and carry out its objectives
3 including, but not limited to, calling meetings and establishing voting
4 procedures. Rules and procedures developed pursuant to this item shall
5 be effective upon an affirmative vote by a majority of the commission
6 members.
- 7 (2) To establish standing and ad hoc committees, which shall be
8 constituted in a manner to ensure a balance between recognized
9 interests and states. The commission shall determine the purpose of
10 each standing or ad hoc committee.
- 11 (3) To seek, apply for, accept, and expend gifts, grants, donations,
12 services, and other aid from public or private sources. The commission
13 may accept or expend funds only after an affirmative vote by a
14 majority of the members of the commission.
- 15 (4) To exercise the powers of a body corporate, including the power to sue
16 and be sued, and adopt and use a common seal and alter the same.
- 17 (5) To enter into contracts and execute all instruments necessary or
18 appropriate to achieve the purposes of the commission.
- 19 (6) To designate a fiscal agent.
- 20 (7) To perform any lawful acts necessary or appropriate to achieve the
21 purposes of the commission.

22 **"§ 77-123. Membership; terms of office; eligibility for appointment; meetings.**

23 (a) The Roanoke River Basin Advisory Commission shall be composed of 15
24 members as follows:

- 25 (1) Two members of the North Carolina House of Representatives whose
26 districts include a part of the North Carolina portion of the river basin,
27 to be appointed by the Speaker of the North Carolina House of
28 Representatives.
- 29 (2) Two members of the North Carolina Senate whose districts include a
30 part of the North Carolina portion of the river basin, to be appointed by
31 the President Pro Tempore of the North Carolina Senate.
- 32 (3) Two members of the Virginia House of Delegates whose districts
33 include a part of the Virginia portion of the river basin, to be appointed
34 by the Speaker of the Virginia House of Delegates.
- 35 (4) Two members of the Virginia Senate whose districts include a part of
36 the Virginia portion of the river basin, to be appointed by the President
37 of the Virginia Senate.
- 38 (5) One person from North Carolina representing a water or sewer
39 municipal utility, appointed by the Governor of North Carolina.
- 40 (6) One person from Virginia representing a water or sewer municipal
41 utility, appointed by the Governor of Virginia.
- 42 (7) One person from North Carolina representing the agricultural
43 community, appointed by the Governor of North Carolina.

1 (8) One person from Virginia representing the agricultural community,
2 appointed by the Governor of Virginia.

3 (9) One person from North Carolina representing a nonprofit land
4 conservation trust operating within the North Carolina portion of the
5 river basin, appointed by the Governor of North Carolina.

6 (10) One person from Virginia representing a nonprofit land conservation
7 trust operating within the Virginia portion of the river basin, appointed
8 by the Governor of Virginia.

9 (11) The President of Progress Energy or the President's designee.

10 (b) Each member appointed to the commission pursuant to subdivisions (1) and
11 (2) of subsection (a) of this section shall serve at the pleasure of the appointing authority
12 so long as the member remains a Representative or Senator. Each member appointed to
13 the commission pursuant to subdivisions (3) and (4) of subsection (a) of this section
14 shall serve as provided by the General Assembly of Virginia. Each member appointed to
15 the commission pursuant to subdivision (11) of subsection (a) of this section shall serve
16 for so long as the member continues in the qualifying position or, if the member is a
17 designee, at the pleasure of the designating authority. Each member appointed to the
18 commission pursuant to subdivisions (5), (7), and (9) of subsection (a) of this section
19 shall serve a term of two years and may be reappointed to serve no more than three
20 consecutive full terms or 84 consecutive months, whichever is greater. The term of a
21 person appointed to the commission pursuant to subdivision (5) of subsection (a) of this
22 section shall expire on 1 January of years evenly divisible by three. The term of a
23 person appointed to the commission pursuant to subdivision (7) of subsection (a) of this
24 section shall expire on 1 January of years that precede by one year those years evenly
25 divisible by three. The term of a person appointed to the commission pursuant to
26 subdivision (9) of subsection (a) of this section shall expire on 1 January of years that
27 follow by one year those years that are evenly divisible by three. The term of a member
28 who is appointed to the commission pursuant to subdivision (6), (8), or (10) of
29 subsection (a) of this section shall serve as provided by the General Assembly of
30 Virginia. An appointment to fill a vacancy on the commission shall be for the unexpired
31 portion of the term. A vacancy on the commission shall be filled in the same manner as
32 the original appointment. Members of the commission who are appointed from or reside
33 in North Carolina may be removed by the Governor of North Carolina for misfeasance,
34 malfeasance, or nonfeasance, as provided in G.S. 143B-13.

35 (c) The legislative members of the commission may appoint additional members
36 to the commission to serve as advisory members as the legislative members consider
37 necessary.

38 (d) The members of the commission shall elect a Chair, Vice-Chair, and any
39 other officers they consider necessary and shall determine the length of the term of
40 office, not to exceed two years, of each officer. The Chair and the Vice-Chair shall not
41 be from the same state, and the Chair shall be rotated between the State of North
42 Carolina and the Commonwealth of Virginia.

43 (e) The commission shall meet upon the call of the Chair. A majority of the
44 commission shall constitute a quorum for the transaction of business.

1 (f) The legislative members of the commission from each state may meet
2 separately to discuss river basin-related issues affecting their state and may report their
3 findings independently of the commission.

4 **"§ 77-124. Staffing; meeting facilities; assistance by agencies.**

5 (a) The North Carolina Department of Environment and Natural Resources and
6 the Virginia Department of Environmental Quality shall provide staff support and
7 facilities to the commission within the existing programs of the respective agencies.
8 Additional staff may be hired or contracted by the commission through funds raised by
9 or provided to it. The duties and compensation of any additional staff shall be
10 determined and fixed by the commission, within available resources.

11 (b) All agencies of the State of North Carolina and the Commonwealth of
12 Virginia shall cooperate with the commission and, upon request, shall assist the
13 commission in fulfilling its responsibilities. The North Carolina Secretary of
14 Environment and Natural Resources and the Virginia Secretary of Natural Resources or
15 their designees shall each serve as the liaison between their respective state agencies
16 and the commission.

17 (c) The commission may obtain information and data upon request from all state
18 officers, agents, agencies, and departments of the State of North Carolina and the
19 Commonwealth of Virginia while in discharge of their duties.

20 **"§ 77-125. Funding.**

21 (a) The commission shall annually adopt a budget that shall include the estimated
22 income and expenses of the commission. Funding for the commission shall be shared
23 and apportioned between the State of North Carolina and the Commonwealth of
24 Virginia as each state may provide through its regular appropriations process.

25 (b) The accounts and records of the commission showing the receipt and
26 disbursement of funds from whatever source derived shall be in the form that the
27 Auditor of North Carolina and the Virginia Auditor of Public Accounts prescribe. The
28 accounts and records of the commission shall be subject to an annual audit by the
29 Auditor of North Carolina and the Virginia Auditor of Public Accounts or their legal
30 representatives. The cost of the annual audits shall be borne by the commission. The
31 results of the audits shall be delivered to the Joint Legislative Commission on
32 Governmental Operations of the General Assembly of North Carolina and to the
33 General Assembly of Virginia as the General Assembly of Virginia shall provide.

34 **"§ 77-126. Compensation and expenses of members of the commission.**

35 (a) Members of the commission who are appointed from or reside in North
36 Carolina shall receive no salary for their service on the commission but may be paid,
37 within available resources, per diem, subsistence, and travel expenses as follows:

- 38 (1) Members of the commission who are members of the General
39 Assembly at the rate established in G.S. 120-3.1.
- 40 (2) Members of the commission who are officials or employees of the
41 State or of local government agencies at the rate established in
42 G.S. 138-6.
- 43 (3) All other members of the commission at the rate established in
44 G.S. 138-5.

1 (b) Members of the commission who are appointed from or reside in Virginia
2 shall be compensated as provided by the General Assembly of Virginia.

3 (c) All expenses shall be paid from funds appropriated or otherwise available to
4 the commission.

5 **"§ 77-127. Annual report.**

6 The commission shall submit an annual report, including any recommendations, on
7 or before 1 October of each year to the Governor of North Carolina, the Environmental
8 Review Commission of the General Assembly of North Carolina, the Governor of
9 Virginia, and the General Assembly of Virginia, as the Governor, the General Assembly
10 of Virginia, or the Virginia Secretary of Natural Resources shall provide.

11 **"§ 77-128. Termination.**

12 The General Assembly of North Carolina may terminate the commission by
13 repealing this Part. The commission shall terminate if the General Assembly of Virginia
14 repeals the provisions of the Code of Virginia that are comparable to this Part."

15 **SECTION 7.** Notwithstanding the provisions of G.S. 77-123(b), as enacted
16 by Section 6 of this act, the initial term of the member of the Roanoke River Basin
17 Advisory Commission appointed pursuant to subdivision (5) of subsection (a) of
18 G.S. 77-123 shall expire 1 January 2010. Notwithstanding the provisions of
19 G.S. 77-123(b), as enacted by Section 6 of this act, the initial term of the member of the
20 Roanoke River Basin Advisory Commission appointed pursuant to subdivision (7) of
21 subsection (a) of G.S. 77-123 shall expire 1 January 2012. Notwithstanding the
22 provisions of G.S. 77-123(b), as enacted by Section 6 of this act, the initial term of the
23 member of the Roanoke River Basin Advisory Commission appointed pursuant to
24 subdivision (9) of subsection (a) of G.S. 77-123 shall expire 1 January 2011.

25 **SECTION 8.** The Roanoke River Basin Advisory Commission shall submit
26 the first report pursuant to G.S. 77-127, as enacted by Section 6 of this act, on or before
27 1 October 2009.

28 **SECTION 9.** This act shall not be construed to obligate the General
29 Assembly of North Carolina or the General Assembly of Virginia to appropriate any
30 funds to implement the provisions of this act.

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