

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 968

Short Title: Mountain Resources Planning. (Public)

Sponsors: Senators Queen; Apodaca, Goss, Nesbitt, and Snow.

Referred to: State and Local Government.

March 26, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

5 "**Chapter 153B.**

6 "**Mountain Resources Planning Act.**

7 "**§ 153B-1. Short title; findings; purpose.**

8 (a) Short Title. – This Chapter shall be known and may be cited as the "Mountain
9 Resources Planning Act."

10 (b) Findings. – The General Assembly finds that:

11 (1) The beauty and abundant natural resources of the mountain region of
12 western North Carolina are prized by all North Carolinians. Millions of
13 tourists travel to the mountain region of western North Carolina to see and
14 experience the natural beauty of the mountains, including the vistas near
15 national parks, national forests, State parks, and State forests. This tourism is
16 vitaly important to the economy of western North Carolina.

17 (2) The United States Congress has recognized the natural abundance and
18 cultural heritage of the mountain region of western North Carolina by
19 creating the Blue Ridge National Heritage Area, which, in turn, has
20 established a precedent for successful collaborative planning in the
21 stewardship of important mountain resources.

22 (3) The same beauty and natural abundance that is valued by North Carolina
23 residents, tourists, and the United States Congress is being adversely
24 affected by land-use practices that are negatively impacting the public's
25 enjoyment of the important mountain resources of the mountain region of
26 western North Carolina, including publicly owned lands. The mountain
27 region of western North Carolina is subject to challenges and pressures
28 specific to the topography and environment of the mountains. The mountain
29 region of western North Carolina has experienced accelerating trends that
30 are adversely affecting important mountain resources, and local governments
31 face challenges as they adapt to new and difficult changes to the landscape.

32 (c) Purpose. – It is the purpose of this Chapter to encourage quality growth and
33 development while preserving the natural resources, open spaces, and farmland of the mountain
34 region of western North Carolina.

35 "**§ 153B-2. Definitions.**

36 The following definitions apply in this Article:



- 1 (1) Commission. – The Mountain Resources Commission created by this
2 Chapter.
- 3 (2) Council. – The Mountain Area Technical Advisory Council.
- 4 (3) Fund. – The Mountain Area Resources Fund created by this Chapter.
- 5 (4) Important mountain resources. – The natural and cultural resources of the
6 mountain region of western North Carolina, including, but not limited to,
7 State and federal public lands, wildlife habitat, farms, forestland and rural
8 landscapes, mountain vistas, mountain streams and rivers, mountain lakes,
9 and historical and archeological resources.
- 10 (5) Mountain region of Western North Carolina. – The area encompassed by the
11 counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke,
12 Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson,
13 Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry,
14 Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.
- 15 (6) Secretary. – The Secretary of the Department of Environmental and Natural
16 Resources.

17 **"§ 153B-3. Mountain Resources Fund; State support of local and regional programs.**

18 (a) Fund Established. – There is established the Mountain Resources Fund in the Office
19 of the State Treasurer to be used to develop local and regional plans and programs for the
20 protection of the important mountain resources of the mountain region of western North
21 Carolina. It is the intent of the General Assembly that the Fund shall be used to develop local
22 and regional plans and programs and be used to supplement, not supplant, existing funding to
23 develop local and regional plans and programs.

24 (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund
25 separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the
26 custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and
27 G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the
28 Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward
29 in the Fund for the next succeeding fiscal year.

30 **"§ 153B-4. Mountain Resources Commission.**

31 (a) Creation. – The Mountain Resources Commission is hereby established. The
32 Commission is a permanent body corporate of the State composed of members from the
33 mountain region of western North Carolina. The Commission shall be located administratively
34 in the Department of Environment and Natural Resources but shall exercise its statutory powers
35 and duties independently of the Department of Environment and Natural Resources. The
36 Commission shall meet in western North Carolina. Funds appropriated for the Commission by
37 the General Assembly shall be disbursed directly to the Commission at the beginning of each
38 fiscal year.

39 (b) Purpose. – The purposes and functions of the Mountain Resources Commission are
40 to do all of the following:

- 41 (1) Identify and evaluate issues affecting important mountain resources and
42 recommend policies and programs to address those issues.
- 43 (2) Coordinate with existing local and regional efforts to address threats to
44 important mountain resources and work undertaken by Councils of
45 Government and the jurisdictions they serve in the mountain region of
46 western North Carolina.
- 47 (3) Provide a forum for discussion of issues affecting important mountain
48 resources.
- 49 (4) Promote communication, coordination, and education among stakeholders
50 within the mountain region of western North Carolina.

- 1 (5) Allocate funds from the Mountain Resources Fund to support the
2 development of local and regional plans and programs for the protection of
3 important mountain resources.
- 4 (6) Collect research and information from North Carolina and other states and
5 jurisdictions regarding State and regional approaches to coordinating (i)
6 provision of infrastructure for the protection of important mountain
7 resources and (ii) efforts to encourage quality growth to protect such
8 important mountain resources.
- 9 (7) Determine whether new strategies or tools would be helpful to address
10 pressures on important mountain resources and whether and how such
11 strategies or tools should be implemented to protect such resources.
- 12 (8) Provide guidance and make recommendations to local, State, and federal
13 legislative and administrative bodies and to others as it considers necessary
14 and appropriate for the use, stewardship, and enhancement of important
15 mountain resources.
- 16 (c) Authority. – To achieve its purposes, the Commission shall have all of the following
17 powers and duties:
- 18 (1) To develop rules and procedures for the conduct of its business or as may be
19 necessary to perform its duties and carry out its objectives, including, but not
20 limited to, calling meetings and establishing voting procedures. Rules and
21 procedures developed pursuant to this item shall be effective upon an
22 affirmative vote by a majority of the Commission members.
- 23 (2) To establish standing and ad hoc committees. The Commission shall
24 determine the purpose of each standing or ad hoc committee.
- 25 (3) To seek, apply for, accept, and expend gifts, grants, donations, services, and
26 other aid from public or private sources. The Commission may accept or
27 expend funds only after an affirmative vote by a majority of the members of
28 the Commission.
- 29 (4) To exercise the powers of a body corporate, including the power to sue and
30 be sued, and adopt and use a common seal and alter the same.
- 31 (5) To enter into contracts and execute all instruments necessary or appropriate
32 to achieve the purposes of the Commission.
- 33 (6) To designate a fiscal agent.
- 34 (7) To perform any lawful acts necessary or appropriate to achieve the purposes
35 of the Commission.
- 36 (d) Membership. – The Commission shall consist of 17 members as follows:
- 37 (1) Two representatives from the public at large who are residents of the
38 mountain region of Western North Carolina appointed by the Speaker of the
39 House of Representatives.
- 40 (2) Two representatives from the public at large who are residents of the
41 mountain region of Western North Carolina appointed by the President Pro
42 Tempore of the Senate.
- 43 (3) Six representatives from the public at large who are residents of the
44 mountain region of Western North Carolina appointed by the Governor
45 including:
- 46 a. Four who shall at the time of appointment be actively connected with
47 or have experience in local government within the mountain region
48 of Western North Carolina.
- 49 b. One who shall at the time of appointment be actively associated with
50 a land trust organization working in Western North Carolina.

1 c. One who shall at the time of appointment have experience in tourism
2 or tourism development in the mountain region of western North
3 Carolina.

4 (4) One member to represent the North Carolina National Parks, Parkway, and
5 Forest Development Council.

6 (5) Five members to represent each of the following regional councils of
7 government as appointed by those councils: the Southwestern North
8 Carolina Planning and Economic Development Commission, the Isothermal
9 Planning and Development Commission, the High Country Council of
10 Governments, the Western Piedmont Council of Governments, and the Land
11 of Sky Regional Council.

12 (6) One representative appointed by the board of the Blue Ridge National
13 Heritage Area.

14 The members of the Commission shall elect a chair, vice-chair, and any other officers they
15 consider necessary and shall determine the length of the term of office, not to exceed two years,
16 of each officer. A majority of the Commission shall constitute a quorum. Each member
17 appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the
18 Commission shall be filled by the original appointing authority.

19 (e) Expenses. – Expenses of members of the Commission shall receive per diem,
20 subsistence, and travel allowances in accordance with G.S. 120-3.1, 138-5, or 138-6, as
21 appropriate:

22 (1) Members of the Commission who are appointed from or reside in North
23 Carolina shall receive no salary for their service on the Commission but may
24 be paid, within available resources, per diem, subsistence, and travel
25 expenses as follows:

26 a. Members of the Commission who are officials or employees of the
27 State or of local government agencies at the rate established in
28 G.S. 138-6.

29 b. All other members of the Commission at the rate established in
30 G.S. 138-5.

31 (2) All expenses shall be paid from funds appropriated or otherwise available to
32 the Commission through the Mountain Resources Fund.

33 (f) Staff Support. – The North Carolina Department of Environment and Natural
34 Resources shall provide staff support and facilities to the Commission within the existing
35 programs of the agency. Additional staff may be hired or contracted by the Commission
36 through funds raised by or provided to it. The duties and compensation of any additional staff
37 shall be determined and fixed by the Commission, within available resources.

38 (g) State Agency Cooperation. – All agencies of the State of North Carolina shall
39 cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its
40 responsibilities. The North Carolina Secretary of Environment and Natural Resources or the
41 Secretary's designee shall serve as the liaison between the Secretary's agency and the
42 Commission. The Commission may obtain information and data upon request from all officers,
43 agents, agencies, and departments of the State of North Carolina or of local governments while
44 in discharge of its duties.

45 (h) The Commission shall work in partnership with the Blue Ridge National Heritage
46 Area to protect the important mountain resources across the mountain region of western North
47 Carolina.

48 (i) The role of the Commission is advisory in nature and in no way shall the
49 Commission be construed to have regulatory authority.

50 "§ 153B-5. Mountain Resources Technical Advisory Council.

1 (a) Creation. – There is hereby created a council to be known as the Mountain
2 Resources Technical Advisory Council.

3 (b) The Council shall consist of not more than 13 members appointed by the Mountain
4 Resources Commission to include environmental, engineering, planning, and State and local
5 government professionals with expertise and experience to contribute to the work of the
6 Commission.

7 (c) Functions and Duties. – The Council shall assist the Commission in an advisory
8 capacity. The Council shall meet on such schedule and provide such assistance as may be
9 requested of it by the Commission.

10 (d) Members. – Multiple Offices. – Membership on the Mountain Resources Technical
11 Advisory Council is hereby declared to be an office that may be held concurrently with other
12 elective or appointive offices (except the office of Commission member) in addition to the
13 maximum number of offices permitted to be held by one person under G.S. 128-1.1.

14 (e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected
15 annually by the Council.

16 (f) Compensation. – The members of the Advisory Council who are not State
17 employees shall receive per diem and necessary travel and subsistence expenses in accordance
18 with the provisions of G.S. 138-5."

19 **SECTION 2.** This act becomes effective July 1, 2009.