

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 418
Mar 21, 2013
HOUSE PRINCIPAL CLERK

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HOUSE DRH30201-LM-106C (03/08)

Short Title: Asheville/Buncombe Cty/Parks & Rec Authority. (Local)

Sponsors: Representatives Ramsey and Moffitt (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT AUTHORIZING BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE TO
ESTABLISH A PARKS AND RECREATION AUTHORITY.

The General Assembly of North Carolina enacts:

SECTION 1. Parks and Recreation Authority; Creation; Membership. (a)
Buncombe County and the City of Asheville may, by agreement, create a Parks and Recreation
Authority (hereinafter "Authority"). The Authority shall be a body, corporate and politic.

(b) The Authority shall consist of seven members, three of whom shall be appointed by
the Board of Commissioners of Buncombe County (hereinafter "Board"), three of whom shall
be appointed by the City Council of the City of Asheville, and one of whom shall be appointed
jointly by the Board and City Council. At least one of the members appointed by the Board
shall be a member of the Board of Commissioners, and at least one of the members appointed
by the City Council shall be a member of the City Council. Nothing in this act shall prohibit the
appointment of only Board and City Council members to the Authority. All appointments shall
be for a term of three years, except that as to those members first appointed, two shall be
appointed for a one-year term, two shall be appointed for a two-year term, and three shall be
appointed for a three-year term. The date from which regular three-year terms shall run shall be
established in the agreement. Appointments to fill vacancies occurring during the regular terms
shall be made by the appointing authority. The appointments of all members shall run until
their successors are appointed and qualified.

(c) The members of the Authority shall elect a chairman and vice-chairman from the
membership of the Authority. They shall also elect a secretary who may or may not be a
member of the Authority.

(d) A majority of the members shall constitute a quorum for the transaction of business
and an affirmative vote of the majority of the members present at a meeting of the Authority
shall be required to constitute action of the Authority. Members of the Authority shall receive
such compensation, if any, as may be fixed by the Board and City Council.

SECTION 2. Purpose of the Authority. – The purpose of the Authority shall be to
manage or operate parks, greenways, or recreation facilities, as designated by the Board and
City Council. Notwithstanding any other provision of law, the Board or City Council may
dedicate, sell, convey, donate, or lease any of its interest in any property to the Authority under
any terms established by the Board or City Council. Once an asset is conveyed to the Authority,
it may not be removed from the Authority's management or control without the approval of a
majority of the members of the Board and City Council, respectively.

SECTION 3. General Powers of the Authority. – The general powers of the
Authority shall be to:



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- 1 (1) Make rules and regulations, not inconsistent with this act, for its
2 organization and internal management.
- 3 (2) Employ persons deemed necessary to carry out functions and duties assigned
4 to them by the Authority and to fix their compensation within the limit of
5 available funds.
- 6 (3) With the approval of the Board and City Council, to use officers, employees,
7 agents, and facilities of the county or city on such basis as may be agreed
8 upon.
- 9 (4) Acquire, maintain, and operate any buildings, structures, and facilities as
10 may be necessary or convenient for the operations of the Authority.
- 11 (5) Establish rules governing the use of the parks and recreational facilities
12 under the jurisdiction of the Authority.
- 13 (6) Enter into contracts and leases for facilities and services.
- 14 (7) Acquire and dispose of real and personal property under the jurisdiction of
15 the Authority with the approval of the Board and City Council.
- 16 (8) Surrender to the county or city any property no longer required by the
17 Authority.
- 18 (9) Allocate funds for repairs, renovations, and improvements of real and
19 personal property under the jurisdiction of the Authority.
- 20 (10) Solicit financial and material support from public and private sources.
- 21 (11) Receive public and private donations, appropriations, and grants.
- 22 (12) Prepare and submit an annual budget to the Board and City Council in the
23 same manner as other county and city departments.
- 24 (13) Make recommendations and an annual report to the Board and City Council
25 concerning the operation of the Authority and the status of park and
26 recreation programs under the jurisdiction of the Authority.
- 27 (14) Make plans, surveys, and studies of parks, greenways, and recreational
28 facilities under the jurisdiction of the Authority and to prepare and make
29 recommendations to the Board and City Council in regard thereto.
- 30 (15) Retain and employ counsel, auditors, engineers, and private consultants on
31 an annual salary contract basis or otherwise for rendering professional or
32 technical services and advice.
- 33 (16) Sue and be sued.
- 34 (17) Have a seal.
- 35 (18) Do all things necessary or convenient to carry out the purposes provided for
36 in this act and for the exercise of the powers granted to the Authority.

37 **SECTION 4.** Funds. – (a) The establishment and operation of a Parks and
38 Recreation Authority as herein authorized is a governmental function and a public purpose, and
39 the Board and City Council are hereby authorized to appropriate funds to support the
40 establishment and operation of the Authority. The Board or City Council may also dedicate,
41 sell, convey, donate, or lease any of its interest in any property to the Authority. Further, the
42 Authority is hereby authorized to establish any license and regulatory fees and charges as it
43 may deem appropriate, subject to the approval of the Board and City Council. The county is
44 authorized to levy and collect a tax in the county in the amount it may deem necessary, not
45 exceeding seven cents (.07¢) on the one hundred dollars (\$100.00) valuation of property in the
46 county from year to year, and shall keep the same as a separate and special fund to be used only
47 for park and recreational purposes under the jurisdiction of the Authority. If the Board and City
48 Council find that the funds otherwise available to operate the Authority are insufficient, the
49 Board may call a special election without a petition and submit to the qualified voters of the
50 county the question of whether or not bonds shall be issued, specifying the maximum amount

1 thereof, for the purpose of acquiring lands, buildings, equipment, and facilities and for the
2 operations of the Authority.

3 (b) The Authority shall have no authority to tax property within its jurisdictional
4 boundaries and shall have no powers of eminent domain. The Authority is not eligible to
5 receive local sales or use or any other taxes allocated by the State to taxing counties and cities.

6 **SECTION 5.** Fiscal Accountability. – The Authority shall be fiscally accountable
7 to the Board and City Council, and the Board and City Council shall have authority to examine
8 all records and accounts of the Authority at any time.

9 **SECTION 6.** Termination. – The Board and City Council shall have the authority
10 to terminate the existence of the Authority at any time by a majority vote of the Board and City
11 Council, respectively. In the event of termination, all property and assets of the Authority shall
12 automatically become the property of the county or city, whichever entity conveyed the asset to
13 the Authority, and the county and city shall jointly succeed to all rights, obligations, and
14 liabilities of the Authority.

15 **SECTION 7.** Insofar as the provisions of this act are not consistent with the
16 provisions of any other act or law, public or private, the provisions of this act shall be
17 controlling.

18 **SECTION 8.** This act is effective when it becomes law.