

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

H.B. 415  
Mar 31, 2015  
HOUSE PRINCIPAL CLERK

H

D

HOUSE DRH40230-LM-40 (02/04)

Short Title: Fontana Dam/Establish Electric Power Board. (Local)

Sponsors: Representative West.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE CHARTER OF THE TOWN OF FONTANA DAM TO  
3 AUTHORIZE THE TOWN COUNCIL TO ESTABLISH AN ELECTRIC POWER  
4 BOARD TO MANAGE AND CONTROL THE TOWN'S ELECTRIC PUBLIC  
5 ENTERPRISE SERVICE.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** The Charter of the Town of Fontana Dam, being Chapter 110 of the  
8 2011 Session Laws, is amended by adding a new Article to read as follows:

9 "ARTICLE VIII. Electric Power Board.

10 "Section 8.1. Power Board Created. (a) For the purpose of providing electric power  
11 generation, transmission, and distribution systems as authorized in Article 16 of Chapter 160A  
12 of the General Statutes, there is hereby established an Electric Power Board for the Town of  
13 Fontana Dam, to be known and designated as "The Town of Fontana Dam Electric Power  
14 Board," hereinafter referred to as the "Power Board." The Power Board shall consist of five  
15 members, who shall be appointed by the Town Council. At least two of the members shall be  
16 residents of the Town, and all of the members shall be residents of Graham County. The  
17 members shall serve staggered terms of four years each and shall be eligible for successive  
18 terms. If a member resigns, dies, or otherwise becomes incapable of performing his or her  
19 duties, the Town Council shall appoint a person to fill the remainder of the term. A member of  
20 the Town Council shall be eligible to serve as a member of the Power Board.

21 (b) In order to stagger the terms as provided in subsection (a) of this Section, the initial  
22 Power Board members shall be appointed as follows: (i) two to serve for a term of four years,  
23 (ii) two for a term of three years, and (iii) one for a term of two years. Upon the expiration of  
24 the terms of the initial Power Board members, each member shall be appointed for a term of  
25 four years and shall serve until his or her successor is appointed.

26 "Section 8.2. Independent Control. The Power Board, acting by itself or through its duly  
27 authorized officers and employees, shall have and maintain full control and complete  
28 jurisdiction over the management, operation, maintenance, and improvement of the electric  
29 utility system and may do any and all acts and things that are necessary, convenient, or  
30 desirable to the exercise of the control and jurisdiction and to the establishment, preservation,  
31 and promotion of an orderly, economic, and businesslike administration of the system. Except  
32 as expressly provided in this Article, the system shall be free from the jurisdiction, direction, or  
33 control of Town officers, Town employees, and the Town Council.

34 "Section 8.3. Organization; Meetings. (a) The members of the Power Board shall meet as  
35 soon after their appointment as possible and shall elect out of their number a chair and  
36 secretary, each of whom shall be a different person. However, the Power Board may employ



1 someone who is not a member to serve as secretary and may, in its discretion, elect a member  
2 to serve as vice-chair. The duties of each officer shall be as prescribed by the Power Board  
3 from time to time and shall be consistent with the provisions of this Article. Each member of  
4 the Power Board shall be entitled to vote on any question before the Power Board.

5 (b) The Power Board shall hold at least one public meeting every other month and as  
6 many special meetings as may be necessary or convenient at a time and place to be determined  
7 by the Power Board. The presence of three members of the Power Board shall constitute a  
8 quorum. The Power Board shall keep a written record of all regular and special meetings.

9 "Section 8.4. **Compensation.** The members of the Power Board shall each receive  
10 compensation from the funds under its control in a sum fixed by the Power Board in its annual  
11 budget.

12 "Section 8.5. **Surety Bonds.** The Power Board may, in its discretion, and in an amount it  
13 deems necessary, require surety bonds from any system officer or employee. Premiums for the  
14 bonds shall be paid out of the funds of the system.

15 "Section 8.6. **Duties.** The Power Board shall do the following:

16 (1) Keep the funds, books, and accounts of the electric utility system separate  
17 and apart from all other funds, books, and accounts of the Town or any of  
18 the departments of the Town. All funds handled by the Power Board shall be  
19 paid over to the finance officer of the Power Board. The funds of the system,  
20 including revenues from the operation thereof, shall be deposited in the  
21 name of the Power Board. The funds shall be disbursed only on voucher  
22 signed by the chair or general manager of the system issued pursuant to  
23 resolution or order of the Power Board, a certified copy of which shall be  
24 filed in the office of the finance officer of the Power Board.

25 (2) At the end of each fiscal year, cause the funds, books, and accounts of the  
26 Power Board to be audited by a certified public accountant or an accountant  
27 certified by the Local Government Commission as provided in G.S. 159-34.  
28 The Town Council shall select the auditor and the auditor shall report  
29 directly to the Town Council. Upon giving reasonable notice, the Town  
30 Council shall have full access to the books, accounts, and records of the  
31 Power Board.

32 (3) Make and file with the Town Council on the first day of January and the first  
33 day of July of each year a financial statement showing the financial  
34 operations of the system during the preceding six months and the financial  
35 condition of the system.

36 (4) Exercise fiscal control related to all matters, including establishing and  
37 maintaining an accounting system and designating an official depository, as  
38 provided in Part 3 of Article 3 of Subchapter III of Chapter 159 of the  
39 General Statutes.

40 (5) Make and enforce all necessary and desirable rules and regulations for the  
41 efficient use, operation, and management of the system.

42 "Section 8.7. **Employment of Personnel.** The Power Board shall have the power to employ  
43 and fix the duties and compensation of its officers and employees as it deems necessary or  
44 convenient for the operation of the system. The Power Board may employ a general manager  
45 who shall be qualified by training and experience to supervise and manage the day-to-day  
46 operation of the electric utility system. The general manager shall serve under the direction and  
47 control of the Power Board and at the pleasure of the Power Board. The Power Board may  
48 delegate to the general manager, among other things, the following powers and duties:

49 (1) To determine the number of employees necessary for the operation of the  
50 electric utility system and to establish their duties and compensation.

51 (2) To control the construction and repairs of utility facilities.

- 1           (3)    To execute and enforce all rules, regulations, programs, plans, and decisions  
2           made or adopted by the Power Board.
- 3           (4)    To prepare plans and specifications, accept bids, and execute contracts,  
4           according to standards established by the Power Board.
- 5           (5)    To employ a finance officer who may be given the authority to handle the  
6           day-to-day financial operations of the Power Board, including billings and  
7           receiving payment for services provided by the Power Board. The finance  
8           officer shall conduct his or her duties as provided in Chapter 159 of the  
9           General Statutes.

10        "**Section 8.8. Sale of Electricity.** The Power Board is hereby authorized and empowered to  
11        extend its electric system and to sell electricity in any area permitted in G.S. 160A-312.

12        "**Section 8.9. Rates.** The Power Board shall fix rates to be charged for services rendered by  
13        the system. The rates shall be fair, reasonable, and uniform for all customers in the same class,  
14        but different rate schedules may be applied to different classes of customers, as determined by  
15        the Power Board.

16        "**Section 8.10. Revenue Bonds.** The Power Board is hereby authorized to provide for the  
17        issuance of revenue bonds for the acquisition, construction, improvement, or expansion of the  
18        electric system from time to time in the manner provided for in this section. The bonds shall be  
19        issued by the Town Council pursuant to Article 5 of Subchapter IV of Chapter 159 of the  
20        General Statutes, shall be issued in the amounts and at the times, and shall bear the maturity  
21        dates as the Power Board shall direct. It shall be the duty of the Town Council to provide for  
22        the issuance of the bonds pursuant to general law as directed by the Power Board. However, the  
23        Town Council shall not be required to issue any bonds under this section without its approval if  
24        the bonds to be issued are payable out of the Town's general revenue. It is the intention of this  
25        section that the Power Board be empowered to direct the issuance of bonds under this section  
26        only when the bonds are to be payable solely from the revenues of the electric system.

27        "**Section 8.11. Contracts, Negotiations, and Grants.** (a) The Power Board may enter into  
28        leases, contracts, and agreements as it deems necessary or desirable in conducting the business  
29        and operations of the system so long as they are in accordance with the general laws of the  
30        State of North Carolina. The authority given the Power Board by this section shall not be  
31        construed to mean that the Power Board has the authority to sell, lease, or otherwise dispose of  
32        all or a major part of the system, unless the transaction is approved by the Town Council by  
33        ordinance.

34        (b)    The Power Board may apply for, accept, receive, and dispense funds or grants made  
35        available to it by the State or any of its agencies or political subdivisions, the United States, or  
36        any private entity.

37        "**Section 8.12. Eminent Domain.** The Power Board may exercise the right of eminent  
38        domain on behalf of and in the name of the Town of Fontana Dam for the purpose of acquiring  
39        any property, real, personal, or mixed, necessary or useful in exercising the power and authority  
40        conferred in this Article. The title to all property acquired by the Power Board either by  
41        contract or condemnation shall be taken in the name of the Town of Fontana Dam."

42        **SECTION 2.** Section 1 of this act becomes effective only if both of the following  
43        acts occur: (i) the Fontana Village Resort approves the transfer of the electric power grid under  
44        its ownership and control to the Town of Fontana Dam and (ii) the Town Council of the Town  
45        of Fontana Dam, in its discretion and by majority vote, approves the operation of an electric  
46        utility system as provided in Section 1 of this act. If both of these acts do not occur, Section 1  
47        of this act shall have no force and effect.

48        **SECTION 3.** This act is effective when it becomes law.