

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 415

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

Sponsors: Representative West (Primary Sponsor).

*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: Local Government.

April 1, 2015

A BILL TO BE ENTITLED

AN ACT TO AMEND THE CHARTER OF THE TOWN OF FONTANA DAM TO  
AUTHORIZE THE TOWN COUNCIL TO ESTABLISH AN ELECTRIC POWER  
BOARD TO MANAGE AND CONTROL THE TOWN'S ELECTRIC PUBLIC  
ENTERPRISE SERVICE.

The General Assembly of North Carolina enacts:

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

"ARTICLE VIII. Electric Power Board.

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

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

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

**Section 8.3. Organization; Meetings.** (a) The members of the Power Board shall meet as  
soon after their appointment as possible and shall elect out of their number a chair and



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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