

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 1083  
State and Local Government Committee Substitute Adopted 5/5/09  
Third Edition Engrossed 7/9/09  
House Committee Substitute Favorable 7/28/09  
House Committee Substitute #2 Favorable 8/5/09

Short Title: Little Tennessee River Basin Advisory Comm. (Public)

Sponsors:

Referred to:

March 31, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO ESTABLISH THE LITTLE TENNESSEE RIVER BASIN ADVISORY  
3 COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The title of Article 8 of Chapter 77 of the General Statutes reads as  
6 rewritten:

7 "Article 8.

8 North Carolina/South Carolina River Basins Basin Advisory Commissions."

9 **SECTION 2.** Chapter 77 of the General Statutes is amended by adding a new  
10 Article to read:

11 "Article 10.

12 "North Carolina/Tennessee/Georgia River Basin Advisory Commission.

13 **"§ 77-140. Definitions.**

14 The following definitions apply in this Article:

15 (1) "Commission" means the Little Tennessee River Basin Advisory  
16 Commission.

17 (2) "River basin" or "river basins" means that land area designated as the Little  
18 Tennessee River Basin by the North Carolina Department of Environment  
19 and Natural Resources pursuant to G.S. 143-215.22G, the Georgia  
20 Department of Natural Resources, and the Tennessee Department of  
21 Environment and Conservation.

22 **"§ 77-141. Commission established; purposes.**

23 There is established the Little Tennessee River Basin Advisory Commission. The  
24 Commission shall be constituted as described in this Article. The Commission shall be a  
25 permanent body composed of members from the State of North Carolina, the State of  
26 Tennessee, and the State of Georgia. The purpose of the Commission shall be to:

27 (1) Provide guidance and make recommendations to local, state, and federal  
28 legislative and administrative bodies, and to others as it considers necessary  
29 and appropriate, for the use, stewardship, and enhancement of the water and  
30 other natural resources for all citizens within the river basin.

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

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



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- 1           (4)    Identify problems and recommend appropriate solutions.  
2           (5)    Undertake studies related to water quantity, water quality, and other natural  
3           resources in the river basin based on existing data available from agencies  
4           located in any of the member states and provide for the distribution and  
5           dissemination of information garnered from those studies.  
6           (6)    Determine the optimum approach to comprehensively and collaboratively  
7           provide recommendations for integrated river management, including, but  
8           not limited to, the total assimilative capacity of the river.

9    **"§ 77-142. Powers and duties.**

10          (a)    The authority granted to the Commission shall be advisory in nature and in no way  
11          shall the Commission be construed to have any regulatory authority.

12          (b)    The Commission shall not have any authority to obligate or otherwise bind the State  
13          of North Carolina, the State of Tennessee, the State of Georgia, or any agency or subdivision of  
14          any of the member states.

15          (c)    To achieve its purposes, the Commission shall have all of the following powers and  
16          duties:

- 17           (1)    To develop rules and procedures for the conduct of its business or as may be  
18           necessary to perform its duties and carry out its objectives, including, but not  
19           limited to, calling meetings and establishing voting procedures. Rules and  
20           procedures developed pursuant to this subdivision shall be effective upon an  
21           affirmative vote by a majority of the Commission members.  
22           (2)    To establish standing and ad hoc committees, which shall be constituted in a  
23           manner to ensure a balance between recognized interests and states. The  
24           Commission shall determine the purpose of each standing or ad hoc  
25           committee.  
26           (3)    To seek, apply for, accept, and expend gifts, grants, donations, services, and  
27           other aid from public or private sources. The Commission may accept or  
28           expend funds only after an affirmative vote by a majority of the members of  
29           the Commission.  
30           (4)    To exercise the powers of a body corporate, including the power to sue and  
31           be sued, and adopt and use a common seal and alter the same.  
32           (5)    To establish a nonprofit corporation to assist in administration and in  
33           fund-raising.  
34           (6)    To enter into contracts and execute all instruments necessary or appropriate  
35           to achieve the purposes of the Commission.  
36           (7)    To designate a fiscal agent.  
37           (8)    To perform any lawful acts necessary or appropriate to achieve the purposes  
38           of the Commission.

39    **"§ 77-143. Membership; terms of office; eligibility for appointment; meetings.**

40          (a)    The Little Tennessee River Basin Advisory Commission shall be composed of 27  
41          members as follows:

- 42           (1)    One member of the North Carolina House of Representatives whose district  
43           includes a part of the North Carolina portion of the river basin, to be  
44           appointed by the Speaker of the North Carolina House of Representatives.  
45           (2)    One member of the North Carolina Senate whose district includes a part of  
46           the North Carolina portion of the river basin, to be appointed by the  
47           President Pro Tempore of the North Carolina Senate.  
48           (3)    One member of the Tennessee House of Representatives whose district  
49           includes a part of the Tennessee portion of the river basin, to be appointed  
50           by the Speaker of the Tennessee House of Representatives.

- 1           (4)    One member of the Tennessee Senate whose district includes a part of the  
2           Tennessee portion of the river basin, to be appointed by the Speaker of the  
3           Tennessee Senate.
- 4           (5)    One member of the Georgia House of Representatives whose district  
5           includes a part of the Georgia portion of the river basin, to be appointed by  
6           the Speaker of the Georgia House of Representatives.
- 7           (6)    One member of the Georgia Senate whose district includes a part of the  
8           Georgia portion of the river basin, to be appointed by the President Pro  
9           Tempore of the Georgia Senate.
- 10          (7)    One person, to be appointed by the respective county board of  
11          commissioners, from each of the following four counties in the State of  
12          North Carolina:
- 13               a.    Graham County.
- 14               b.    Jackson County.
- 15               c.    Macon County.
- 16               d.    Swain County.
- 17          (8)    One person, to be appointed by the respective county board of  
18          commissioners, from each of the following three counties in the State of  
19          Tennessee:
- 20               a.    Blount County.
- 21               b.    Loudon County.
- 22               c.    Monroe County.
- 23          (9)    One person, to be appointed by the Rabun County Board of Commissioners,  
24          from Rabun County, Georgia.
- 25          (10)   Two members of the Eastern Band of the Cherokee Indians, to be appointed  
26          by the Tribal Government.
- 27          (11)   One person from the Tennessee Valley Authority, to be designated by the  
28          Chief Executive Officer of that agency.
- 29          (12)   One person from North Carolina representing a water or sewer municipal  
30          utility, appointed by the Governor of North Carolina.
- 31          (13)   One person from Tennessee representing a water or sewer municipal utility,  
32          appointed by the Governor of Tennessee.
- 33          (14)   One person from Georgia representing a water or sewer municipal utility,  
34          appointed by the Governor of Georgia.
- 35          (15)   One person from North Carolina representing the agricultural community,  
36          appointed by the Governor of North Carolina.
- 37          (16)   One person from Tennessee representing the agricultural community,  
38          appointed by the Governor of Tennessee.
- 39          (17)   One person from Georgia representing the agricultural community,  
40          appointed by the Governor of Georgia.
- 41          (18)   One person from a nonprofit basin interest group that operates within the  
42          North Carolina portion of the basin, appointed by the Governor of North  
43          Carolina.
- 44          (19)   One person from a nonprofit basin interest group that operates within the  
45          Tennessee portion of the basin, appointed by the Governor of Tennessee.
- 46          (20)   One person from a nonprofit basin interest group that operates within the  
47          Georgia portion of the basin, appointed by the Governor of Georgia.
- 48          (21)   One person representing Duke Energy Carolinas, appointed by the President  
49          of Duke Energy Carolinas.
- 50          (b)    Each member appointed to the Commission pursuant to subdivisions (1) and (2) of  
51          subsection (a) of this section shall serve at the pleasure of the appointing authority so long as

1 the member remains a representative or senator. Each member appointed to the Commission  
2 pursuant to subdivisions (3) and (4) of subsection (a) of this section shall serve as provided by  
3 the Tennessee General Assembly. Each member appointed to the Commission pursuant to  
4 subdivisions (5) and (6) of subsection (a) of this section shall serve as provided by the Georgia  
5 General Assembly. Each member appointed to the Commission pursuant to subdivisions (11)  
6 and (21) of subsection (a) of this section shall serve for so long as the member continues in the  
7 qualifying position or, if the member is a designee, at the pleasure of the designating authority.  
8 Each member appointed to the Commission pursuant to subdivision (7) of subsection (a) of this  
9 section shall serve a term of two years and may be reappointed to serve no more than three  
10 consecutive full terms or 84 consecutive months, whichever is greater. Each member appointed  
11 to the Commission pursuant to subdivisions (12), (15), and (18) of subsection (a) of this section  
12 shall serve a term of two years and may be reappointed to serve no more than three consecutive  
13 full terms or 84 consecutive months, whichever is greater. The term of a member who is  
14 appointed to the Commission pursuant to subdivision (8), (13), (16), or (19) of subsection (a) of  
15 this section shall serve as provided by the Tennessee General Assembly. The term of a member  
16 who is appointed to the Commission pursuant to subdivision (9), (14), (17), or (20) of  
17 subsection (a) of this section shall serve as provided by the Georgia General Assembly. The  
18 term of a member who is appointed to the Commission pursuant to subdivision (10) of  
19 subsection (a) of this section shall serve as provided by the Tribal Government of the Eastern  
20 Band of the Cherokee Indians. An appointment to fill a vacancy on the Commission shall be for  
21 the unexpired portion of the term. A vacancy on the Commission shall be filled in the same  
22 manner as the original appointment. Members of the Commission who are appointed from or  
23 reside in North Carolina may be removed by the Governor of North Carolina for misfeasance,  
24 malfeasance, or nonfeasance, as provided in G.S. 143B-13.

25 (c) The legislative members of the Commission may appoint additional members to the  
26 Commission to serve as advisory members as the legislative members consider necessary.

27 (d) The members of the Commission shall elect a chair, vice-chair, and any other  
28 officers they consider necessary and shall determine the length of the term of office, not to  
29 exceed two years, of each officer. The chair and the vice-chair shall not be from the same state,  
30 and the chair shall be rotated among the States of North Carolina, Tennessee, and Georgia.

31 (e) The Commission shall meet upon the call of the chair. A majority of the  
32 Commission shall constitute a quorum for the transaction of business.

33 (f) The legislative members of the Commission from each state may meet separately to  
34 discuss river basin-related issues affecting their state and may report their findings  
35 independently of the Commission.

36 **"§ 77-144. Standing and advisory committees.**

37 The Commission may establish standing or advisory committees to facilitate  
38 communication among stakeholders in the basin and to maximize participation among all  
39 interested parties. The Commission may appoint members to standing or advisory committees  
40 in accordance with guidelines adopted by the Commission.

41 **"§ 77-145. Staffing; meeting facilities; assistance by agencies.**

42 (a) The North Carolina Department of Environment and Natural Resources, the  
43 Tennessee Department of Environment and Conservation, and the Georgia Department of  
44 Natural Resources shall provide staff support and facilities to the Commission within the  
45 existing programs of the respective agencies. Additional staff may be hired or contracted by the  
46 Commission through funds raised by or provided to it. The duties and compensation of any  
47 additional staff shall be determined and fixed by the Commission, within available resources.

48 (b) All agencies of the State of North Carolina, the State of Tennessee, and the State of  
49 Georgia shall cooperate with the Commission and, upon request, shall assist the Commission in  
50 fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural  
51 Resources, the Commissioner of the Tennessee Department of Environment and Conservation,

1 and the Commissioner of the Georgia Department of Natural Resources or their designees shall  
2 each serve as the liaison between their respective state agencies and the Commission.

3 (c) The Commission may obtain information and data upon request from all state  
4 officers, agents, agencies, and departments of the State of North Carolina, the State of  
5 Tennessee, and the State of Georgia while in discharge of their duties.

6 **"§ 77-146. Funding.**

7 (a) The Commission shall annually adopt a budget that shall include the estimated  
8 income and expenses of the Commission. Funding for the Commission shall be shared and  
9 apportioned among the State of North Carolina, the State of Tennessee, and the State of  
10 Georgia as each state may provide through its regular appropriations process.

11 (b) The accounts and records of the Commission showing the receipt and disbursement  
12 of funds from whatever source derived shall be in the form that the Auditor of North Carolina,  
13 the Tennessee Director of State Audit, and the Georgia State Auditor prescribe. The accounts  
14 and records of the Commission shall be subject to an annual audit by the Auditor of North  
15 Carolina, the Tennessee Director of State Audit, and the Georgia State Auditor or their legal  
16 representatives. The cost of the annual audits shall be borne by the Commission. The results of  
17 the audits shall be delivered to the Joint Legislative Commission on Governmental Operations  
18 of the General Assembly of North Carolina, the Tennessee General Assembly as the Tennessee  
19 General Assembly shall provide, and to the Georgia General Assembly as the Georgia General  
20 Assembly shall provide.

21 **"§ 77-147. Compensation and expenses of Commission members.**

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

25 (1) Members of the Commission who are members of the General Assembly at  
26 the rate established in G.S. 120-3.1.

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

29 (3) All other members of the Commission at the rate established in G.S. 138-5.

30 (b) Members of the Commission who are appointed from or reside in Tennessee shall  
31 be compensated as provided by the Tennessee General Assembly.

32 (c) Members of the Commission who are appointed from or reside in Georgia shall be  
33 compensated as provided by the Georgia General Assembly.

34 (d) All expenses shall be paid from funds appropriated or otherwise available to the  
35 Commission.

36 **"§ 77-148. Annual report.**

37 The Commission shall submit an annual report, including any recommendations, on or  
38 before October 1 of each year to the Governor of North Carolina and the Environmental  
39 Review Commission of the General Assembly of North Carolina; the Governor of Tennessee  
40 and the Tennessee General Assembly, as the Governor, the General Assembly of Tennessee, or  
41 the Commissioner of the Tennessee Department of Environment and Conservation shall  
42 provide; and to the Governor of Georgia and the Georgia General Assembly, as the Governor,  
43 the General Assembly of Georgia, or the Commissioner of the Georgia Department of Natural  
44 Resources shall provide.

45 **"§ 77-149. Termination.**

46 The General Assembly of North Carolina may terminate the Commission by repealing this  
47 Article. The Commission shall terminate if the Tennessee General Assembly and the Georgia  
48 General Assembly both repeal the provisions of the Tennessee Code Annotated and the Official  
49 Code of Georgia Annotated that are comparable to this Article."

1           **SECTION 3.** The Little Tennessee River Basin Advisory Commission shall submit  
2 the first report pursuant to G.S. 77-148, as enacted by Section 2 of this act, on or before  
3 October 1, 2011.

4           **SECTION 4.** This act shall not be construed to obligate the General Assembly of  
5 North Carolina, the Tennessee General Assembly, or the Georgia General Assembly to  
6 appropriate any funds to implement the provisions of this act.

7           **SECTION 5.** This act is effective when it becomes law.