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Agriculture/Environment/Natural Resources Committee Substitute Adopted
6/12/03
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Short Title: River Basins Advisory Commissions.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH THE CATAWBA/WATEREE RIVER BASIN ADVISORY
COMMISSION AND THE YADKIN/PEE DEE RIVER BASIN ADVISORY
COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 77 of the General Statutes is amended by adding a
new Article to read:

"Article 8.

"River Basins Advisory Commissions.

"§ 77-110. Definitions.

The following definitions apply in this Article:

(1) 'Commission' or 'commissions' means (i) the Catawba/Wateree River
Basin Advisory Commission, (ii) the Yadkin/Pee Dee River Basin
Advisory Commission, or (iii) both commissions, as required by the
context.

(2) 'River basin' or 'river basins' means (i) that land area designated as the
Catawba River Basin pursuant to G.S. 143-215.22G and that land area
designated as the Catawba/Wateree River Basin by the South Carolina
Department of Health and Environmental Control, (ii) that land area
designated as the Yadkin (Yadkin-Pee Dee) River Basin pursuant to
G.S. 143-215.22G and that land area designated as the Yadkin/Pee Dee
River Basin by the South Carolina Department of Health and
Environmental Control, or (iii) both river basins, as required by the
context.

"§ 77-111. Commissions established; purposes.

1 There is established the Catawba/Wateree River Basin Advisory Commission and
2 the Yadkin/Pee Dee River Basin Advisory Commission. The commissions shall be
3 constituted as described in this Article and there shall be a separate commission for each
4 river basin. The commissions shall be permanent bodies composed of members from the
5 State of North Carolina and the State of South Carolina. The purpose of each
6 commission shall be to:

- 7 (1) Provide guidance and make recommendations to local, state, and
8 federal legislative and administrative bodies, and to others as it
9 considers necessary and appropriate, for the use, stewardship, and
10 enhancement of the water, and other natural resources, for all citizens
11 within the river basins.
- 12 (2) Provide a forum for discussion of issues affecting the river basin's
13 water quantity and water quality, and issues affecting other natural
14 resources.
- 15 (3) Promote communication, coordination, and education among
16 stakeholders within the river basins.
- 17 (4) Identify problems and recommend appropriate solutions.
- 18 (5) Undertake studies related to water quantity, water quality, and other
19 natural resources in the river basin based on existing data available
20 from agencies located in either state.
- 21 (6) Determine the optimum approach to comprehensively and
22 collaboratively provide recommendations for integrated river
23 management including, but not limited to, the total assimilative
24 capacity of the river basin.

25 **"§ 77-112. Powers and duties.**

26 (a) The authority granted to each commission shall be advisory in nature and in
27 no way shall either commission be construed to have any regulatory authority.

28 (b) Neither commission shall have any authority to obligate or otherwise bind the
29 State of North Carolina, the State of South Carolina, or any agency or subdivision of
30 either state.

31 (c) To achieve its purposes, each commission shall have all of the following
32 powers and duties:

- 33 (1) To develop rules and procedures for the conduct of its business or as
34 may be necessary to perform its duties and carry out its objectives
35 including, but not limited to, calling meetings and establishing voting
36 procedures. Rules and procedures developed pursuant to this item shall
37 be effective upon an affirmative vote by a majority of the commission
38 members.
- 39 (2) To establish standing and ad hoc committees, which shall be
40 constituted in a manner to ensure a balance between recognized
41 interests and states. The commissions shall determine the purpose of
42 each standing or ad hoc committee.
- 43 (3) To seek, apply for, accept, and expend gifts, grants, donations,
44 services, and other aid from public or private sources. The

1 commissions may accept or expend funds only after an affirmative
2 vote by a majority of the members of the commissions.

3 (4) To exercise the powers of a body corporate, including the power to sue
4 and be sued, and adopt and use a common seal and alter the same.

5 (5) To enter into contracts and execute all instruments necessary or
6 appropriate to achieve the purposes of the commissions.

7 (6) To designate a fiscal agent.

8 (7) To perform any lawful acts necessary or appropriate to achieve the
9 purposes of the commissions.

10 **"§ 77-113. Membership; terms of office; eligibility for appointment; meetings.**

11 (a) The Catawba/Wateree River Basin Advisory Commission shall be composed
12 of 15 members as follows:

13 (1) Two members of the North Carolina House of Representatives whose
14 districts include a part of the North Carolina portion of the river basin,
15 to be appointed by the Speaker of the North Carolina House of
16 Representatives.

17 (2) Two members of the North Carolina Senate whose districts include a
18 part of the North Carolina portion of the river basin, to be appointed by
19 the President Pro Tempore of the North Carolina Senate.

20 (3) Two members of the South Carolina House of Representatives, to be
21 appointed by the Speaker of the South Carolina House of
22 Representatives.

23 (4) Two members of the South Carolina Senate, to be appointed by the
24 President Pro Tempore of the South Carolina Senate.

25 (5) One person from South Carolina representing a water or sewer
26 municipal utility to be appointed by the South Carolina legislative
27 members of the Commission.

28 (6) One person from a nonprofit land conservation trust operating within
29 the North Carolina portion of the river basin, appointed by the
30 Governor of North Carolina.

31 (7) The President of Duke Power or the President's designee.

32 (8) The Chair of the Bi-State Catawba River Task Force or the Chair's
33 designee.

34 (9) The Chief Executive Officer of Carolina's Partnership, Inc., or the
35 Chief Executive Officer's designee.

36 (10) One person to represent the following commissions, appointed jointly
37 by the three chief executive officers of the commissions: the Lake
38 Wylie Marine Commission established pursuant to Article 4 of
39 Chapter 77 of the General Statutes, the Mountain Island Lake Marine
40 Commission established pursuant to Article 6 of Chapter 77 of the
41 General Statutes, and the Lake Norman Marine Commission
42 established pursuant to Chapter 1089 of the 1969 Session Laws.

43 (11) One member of a lake homeowner's association located on the
44 Catawba/Wateree River whose members reside in South Carolina, to

1 be appointed by the President Pro Tempore of the South Carolina
2 Senate.

3 **(b)** The Yadkin/Pee Dee River Basin Advisory Commission shall be composed
4 of 15 members as follows:

5 **(1)** Two members of the North Carolina House of Representatives whose
6 districts include a part of the North Carolina portion of the river basin,
7 to be appointed by the Speaker of the North Carolina House of
8 Representatives.

9 **(2)** Two members of the North Carolina Senate whose districts include a
10 part of the North Carolina portion of the river basin, to be appointed by
11 the President Pro Tempore of the North Carolina Senate.

12 **(3)** Two members of the South Carolina House of Representatives, to be
13 appointed by the Speaker of the South Carolina House of
14 Representatives.

15 **(4)** Two members of the South Carolina Senate, to be appointed by the
16 President Pro Tempore of the South Carolina Senate.

17 **(5)** One person from South Carolina representing a water or sewer
18 municipal utility to be appointed by the South Carolina legislative
19 members of the Commission.

20 **(6)** One person from South Carolina representing the agricultural
21 community to be appointed by the South Carolina legislative members
22 of the Commission.

23 **(7)** One person from a water or sewer municipal authority, appointed by
24 the Governor of North Carolina.

25 **(8)** The President of Progress Energy or the President's designee.

26 **(9)** The President of Alcoa Power Generating, Inc., (APGI) or the
27 President's designee.

28 **(10)** The President of Weyerhaeuser or the President's designee.

29 **(11)** A representative of the land development industry, whose organization
30 does business within the Yadkin/Pee Dee River Basin and who shall be
31 appointed by the Chair of the Commission.

32 **(c)** Each member appointed to the commissions pursuant to subdivisions (1) and
33 (2) of subsections (a) and (b) of this section shall serve at the pleasure of the appointing
34 authority so long as the member remains a Representative or Senator. Each member
35 appointed to the commissions pursuant to subdivisions (3) and (4) of subsections (a) and
36 (b) of this section shall serve as provided by the General Assembly of South Carolina.
37 Each member appointed to the commissions pursuant to subdivisions (7) through (9) of
38 subsection (a) and subdivisions (8) through (10) of subsection (b) of this section shall
39 serve for so long as the member continues in the qualifying position or, if the member is
40 a designee, at the pleasure of the designating authority. Each member appointed to the
41 commissions pursuant to subdivisions (6) and (10) of subsection (a) and subdivisions
42 (7) and (11) of subsection (b) of this section shall serve a term of two years and may be
43 reappointed to serve no more than three consecutive full terms or 84 consecutive
44 months, whichever is greater. The term of a person appointed to the commission

1 pursuant to subdivision (10) of subsection (a) of this section shall expire on 1 January of
2 even-numbered years. The term of a person appointed to the commission pursuant to
3 subdivision (6) of subsection (a) of this section shall expire on 1 January of
4 odd-numbered years. The term of a member who is appointed to the commissions
5 pursuant to subdivisions (5) and (11) of subsection (a) and subdivisions (5) and (6) of
6 subsection (b) of this section shall serve as provided by the General Assembly of South
7 Carolina. An appointment to fill a vacancy on the commissions shall be for the
8 unexpired portion of the term. A vacancy on the commissions shall be filled in the same
9 manner as the original appointment. Members of the commissions who are appointed
10 from or reside in North Carolina may be removed by the Governor of North Carolina
11 for misfeasance, malfeasance, or nonfeasance, as provided in G.S. 143B-13.

12 (d) The legislative members of each commission may appoint additional
13 members to the commission to serve as advisory members as the legislative members
14 consider necessary.

15 (e) The members of each commission shall elect a Chair, Vice-Chair, and any
16 other officers they consider necessary and shall determine the length of the term of
17 office, not to exceed two years, of each officer. The Chair and the Vice-Chair shall not
18 be from the same state and the Chair shall be rotated between the State of North
19 Carolina and the State of South Carolina.

20 (f) Each commission shall meet upon the call of the Chair. A majority of each
21 commission shall constitute a quorum for the transaction of business.

22 (g) The legislative members of the commissions from each state may meet
23 separately to discuss river basin-related issues affecting their state and may report their
24 findings independently of the commissions.

25 **"§ 77-114. Staffing; meeting facilities; assistance by agencies.**

26 (a) The North Carolina Department of Environment and Natural Resources and
27 the South Carolina Department of Health and Environmental Control shall provide staff
28 support and facilities to each commission within the existing programs of the respective
29 agencies. Additional staff may be hired or contracted by each commission through
30 funds raised by or provided to it. The duties and compensation of any additional staff
31 shall be determined and fixed by each commission, within available resources.

32 (b) All agencies of the State of North Carolina and the State of South Carolina
33 shall cooperate with the commissions and, upon request, shall assist each commission in
34 fulfilling its responsibilities. The North Carolina Secretary of Environment and Natural
35 Resources and the Commissioner of the South Carolina Department of Health and
36 Environmental Control or their designees shall each serve as the liaison between their
37 respective state agencies and each commission.

38 (c) The commissions may obtain information and data upon request from all state
39 officers, agents, agencies, and departments of the State of North Carolina and the State
40 of South Carolina while in discharge of their duties.

41 **"§ 77-115. Funding.**

42 (a) Each commission shall annually adopt a budget that shall include the
43 estimated income and expenses of each commission. Funding for the commissions shall

1 be shared and apportioned between the State of North Carolina and the State of South
2 Carolina as each state may provide through its regular appropriations process.

3 (b) The accounts and records of each commission showing the receipt and
4 disbursement of funds from whatever source derived shall be in the form that the
5 Auditor of North Carolina and the State Auditor of South Carolina prescribe. The
6 accounts and records of each commission shall be subject to an annual audit by the
7 Auditor of North Carolina and the State Auditor of South Carolina or their legal
8 representatives. The cost of the annual audits shall be borne by each commission. The
9 results of the audits shall be delivered to the Joint Legislative Commission on
10 Governmental Operations of the General Assembly of North Carolina and to the
11 General Assembly of South Carolina as the General Assembly of South Carolina shall
12 provide.

13 **"§ 77-116. Compensation and expenses of members of the commissions.**

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

17 (1) Members of the commissions who are members of the General
18 Assembly at the rate established in G.S. 120-3.1.

19 (2) Members of the commissions who are officials or employees of the
20 State or of local government agencies at the rate established in
21 G.S. 138-6.

22 (3) All other members of the commissions at the rate established in
23 G.S. 138-5.

24 (b) Members of the commissions who are appointed from or reside in South
25 Carolina shall be compensated as provided by the General Assembly of South Carolina.

26 (c) All expenses shall be paid from funds appropriated or otherwise available to
27 the commissions.

28 **"§ 77-117. Annual report.**

29 The commissions shall submit annual reports, including any recommendations, on or
30 before 1 October of each year to the Governor of North Carolina, the Environmental
31 Review Commission of the General Assembly of North Carolina, the Governor of South
32 Carolina, and the General Assembly of South Carolina, as the Governor, the General
33 Assembly of South Carolina, or the Commissioner of the South Carolina Department of
34 Health and Environmental Control shall provide.

35 **"§ 77-118. Termination.**

36 The General Assembly of North Carolina may terminate the commissions by
37 repealing this Article. The commissions shall terminate if the General Assembly of
38 South Carolina repeals the provisions of the South Carolina Code of Laws that are
39 comparable to this Article."

40 **SECTION 2.** Notwithstanding the provisions of G.S. 77-113(c), as enacted
41 by Section 1 of this act, the initial term of the member of the Catawba/Wateree River
42 Basin Advisory Commission appointed pursuant to G.S. 77-113(a)(10) shall expire
43 1 January 2006. Notwithstanding the provisions of G.S. 77-113(c), as enacted by
44 Section 1 of this act, the initial term of the member of the Catawba/Wateree River Basin

1 Advisory Commission appointed pursuant to G.S. 77-113(a)(6) shall expire 1 January
2 2007. The Catawba/Wateree River Basin Advisory Commission shall submit the first
3 report pursuant to G.S. 77-117, as enacted by Section 1 of this act, on or before 1
4 October 2005. The Yadkin/Pee Dee River Basin Advisory Commission shall submit the
5 first report pursuant to G.S. 77-117, as enacted by Section 1 of this act, on or before 1
6 October 2005.

7 **SECTION 3.** This act shall not be construed to obligate the General
8 Assembly of North Carolina or the General Assembly of South Carolina to appropriate
9 any funds to implement the provisions of this act.

10 **SECTION 4.** This act is effective when it becomes law.