

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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HOUSE BILL 418

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

Sponsors: Representatives Ramsey and Moffitt (Primary Sponsors).

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

Referred to: Government, if favorable, Finance.

March 26, 2013

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE TO
2 ESTABLISH A PARKS AND RECREATION AUTHORITY.
3

4 The General Assembly of North Carolina enacts:

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

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

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

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

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



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

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

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

1 county the question of whether or not bonds shall be issued, specifying the maximum amount
2 thereof, for the purpose of acquiring lands, buildings, equipment, and facilities and for the
3 operations of the Authority.

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

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

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

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

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