

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

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**HOUSE BILL 418
Committee Substitute Favorable 4/15/13**

Short Title: Asheville/Buncombe Culture & Rec. Authority.

(Local)

Sponsors:

Referred to:

March 26, 2013

A BILL TO BE ENTITLED

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

4 The General Assembly of North Carolina enacts:

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

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

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

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

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

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



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

38 **SECTION 4. Funds.** – (a) The establishment and operation of a Culture and
39 Recreation Authority as herein authorized is a governmental function and a public purpose, and
40 the Board and City Council are hereby authorized to appropriate funds to support the
41 establishment and operation of the Authority. The Board or City Council may also dedicate,
42 sell, convey, donate, or lease any of its interest in any property to the Authority. Further, the
43 Authority is hereby authorized to establish any license and regulatory fees and charges as it
44 may deem appropriate, subject to the approval of the Board and City Council. The county is
45 authorized to levy and collect a tax in the county in the amount it may deem necessary, not
46 exceeding seven cents (7¢) on the one hundred dollars (\$100.00) valuation of property in the
47 county from year to year, and shall keep the same as a separate and special fund to be used only
48 for cultural and recreational purposes under the jurisdiction of the Authority. If the Board and
49 City Council find that the funds otherwise available to operate the Authority are insufficient,
50 the Board may call a special election without a petition and submit to the qualified voters of the
51 county the question of whether or not bonds shall be issued, specifying the maximum amount

1 thereof, for the purpose of acquiring lands, buildings, equipment, and facilities and for the
2 operations of the Authority.

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

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

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

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

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