

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

S

3

SENATE BILL 968  
State and Local Government Committee Substitute Adopted 4/30/09  
Appropriations/Base Budget Committee Substitute Adopted 8/5/09

Short Title: Mountain Resources Planning.

(Public)

Sponsors:

Referred to:

March 26, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO SUPPORT PLANNING FOR MOUNTAIN RESOURCES.  
3 The General Assembly of North Carolina enacts:

4 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

5 "**Chapter 153B.**

6 "**Mountain Resources Planning Act.**

7 "**§ 153B-1. Short title; findings; purpose.**

8 (a) Short Title. – This Chapter shall be known and may be cited as the "Mountain  
9 Resources Planning Act."

10 (b) Findings. – The General Assembly finds that:

11 (1) The beauty and abundant natural resources of the mountain region of  
12 Western North Carolina are prized by all North Carolinians. Millions of  
13 tourists travel to the mountain region of Western North Carolina to see and  
14 experience the natural beauty of the mountains, including the vistas near  
15 national parks, national forests, State parks, and State forests. This tourism is  
16 vitaly important to the economy of Western North Carolina.

17 (2) The United States Congress has recognized the natural abundance and  
18 cultural heritage of the mountain region of Western North Carolina by  
19 creating the Blue Ridge National Heritage Area, which, in turn, has  
20 established a precedent for successful collaborative planning in the  
21 stewardship of important mountain resources.

22 (3) The same beauty and natural abundance that is valued by North Carolina  
23 residents, tourists, and the United States Congress is being adversely  
24 affected by land-use practices that are negatively impacting the public's  
25 enjoyment of the important mountain resources of the mountain region of  
26 Western North Carolina, including publicly owned lands. The mountain  
27 region of Western North Carolina is subject to challenges and pressures  
28 specific to the topography and environment of the mountains. The mountain  
29 region of Western North Carolina has experienced accelerating trends that  
30 are adversely affecting important mountain resources, and local governments  
31 face challenges as they adapt to new and difficult changes to the landscape.

32 (c) Purpose. – It is the purpose of this Chapter to encourage quality growth and  
33 development while preserving the natural resources, open spaces, and farmland of the mountain  
34 region of Western North Carolina.

35 "**§ 153B-2. Definitions.**

36 The following definitions apply in this Article:



\* 5 9 6 8 - V - 3 \*

- 1           (1) Commission. – The Mountain Resources Commission created by this  
2           Chapter.
- 3           (2) Council. – The Mountain Area Technical Advisory Council.
- 4           (3) Fund. – The Mountain Area Resources Fund created by this Chapter.
- 5           (4) Important mountain resources. – The natural and cultural resources of the  
6           mountain region of Western North Carolina, including, but not limited to,  
7           State and federal public lands, wildlife habitat, farms, forestland and rural  
8           landscapes, mountain vistas, mountain streams and rivers, mountain lakes,  
9           and historical and archeological resources.
- 10          (5) Mountain region of Western North Carolina. – The area encompassed by the  
11          counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke,  
12          Caldwell, Cherokee, Clay, Cleveland, Graham, Haywood, Henderson,  
13          Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Surry,  
14          Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey in the State.
- 15          (6) Secretary. – The Secretary of the Department of Environment and Natural  
16          Resources.

17 **"§ 153B-3. Mountain Area Resources Fund; State support of local and regional**  
18 **programs.**

19          (a) Fund Established. – There is established the Mountain Area Resources Fund in the  
20 Department of State Treasurer to be used to develop local and regional plans and programs for  
21 the protection of the important mountain resources of the mountain region of Western North  
22 Carolina. It is the intent of the General Assembly that the Fund shall be used to develop local  
23 and regional plans and programs and be used to supplement, not supplant, existing funding to  
24 develop local and regional plans and programs.

25          (b) Fund Earnings, Assets, and Balances. – The State Treasurer shall hold the Fund  
26 separate and apart from all other moneys, funds, and accounts. The State Treasurer shall be the  
27 custodian of the Fund and shall invest its assets in accordance with G.S. 147-69.2 and  
28 G.S. 147-69.3. Investment earnings credited to the assets of the Fund shall become part of the  
29 Fund. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward  
30 in the Fund for the next succeeding fiscal year.

31 **"§ 153B-4. Mountain Resources Commission.**

32          (a) Creation. – The Mountain Resources Commission is hereby established. The  
33 Commission is a permanent body corporate of the State composed of members from the  
34 mountain region of Western North Carolina. The Commission shall be located administratively  
35 in the Department of Environment and Natural Resources but shall exercise its statutory powers  
36 and duties independently of the Department of Environment and Natural Resources. The  
37 Commission shall meet in Western North Carolina. Funds appropriated for the Commission by  
38 the General Assembly shall be disbursed directly to the Commission at the beginning of each  
39 fiscal year.

40          (b) Purpose. – The purposes and functions of the Mountain Resources Commission are  
41 to do all of the following:

- 42           (1) Identify and evaluate issues affecting important mountain resources and  
43           recommend policies and programs to address those issues.
- 44           (2) Coordinate with existing local and regional efforts to address threats to  
45           important mountain resources and work undertaken by councils of  
46           government and the jurisdictions they serve in the mountain region of  
47           Western North Carolina.
- 48           (3) Provide a forum for discussion of issues affecting important mountain  
49           resources.
- 50           (4) Promote communication, coordination, and education among stakeholders  
51           within the mountain region of Western North Carolina.

- 1           (5)    Allocate funds from the Mountain Area Resources Fund to support the  
2           development of local and regional plans and programs for the protection of  
3           important mountain resources.
- 4           (6)    Collect research and information from North Carolina and other states and  
5           jurisdictions regarding State and regional approaches to coordinating (i)  
6           provision of infrastructure for the protection of important mountain  
7           resources and (ii) efforts to encourage quality growth to protect such  
8           important mountain resources.
- 9           (7)    Determine whether new strategies or tools would be helpful to address  
10          pressures on important mountain resources and whether and how such  
11          strategies or tools should be implemented to protect such resources.
- 12          (8)    Provide guidance and make recommendations to local, State, and federal  
13          legislative and administrative bodies and to others as it considers necessary  
14          and appropriate for the use, stewardship, and enhancement of important  
15          mountain resources.
- 16          (c)    Authority. – To achieve its purposes, the Commission shall have all of the following  
17          powers and duties:
- 18               (1)    To develop rules and procedures for the conduct of its business or as may be  
19               necessary to perform its duties and carry out its objectives, including, but not  
20               limited to, calling meetings and establishing voting procedures. Rules and  
21               procedures developed pursuant to this subsection shall be effective upon an  
22               affirmative vote by a majority of the Commission members.
- 23               (2)    To establish standing and ad hoc committees. The Commission shall  
24               determine the purpose of each standing or ad hoc committee.
- 25               (3)    To seek, apply for, accept, and expend gifts, grants, donations, services, and  
26               other aid from public or private sources. The Commission may accept or  
27               expend funds only after an affirmative vote by a majority of the members of  
28               the Commission.
- 29               (4)    To exercise the powers of a body corporate, including the power to sue and  
30               be sued, and adopt and use a common seal and alter the same.
- 31               (5)    To enter into contracts and execute all instruments necessary or appropriate  
32               to achieve the purposes of the Commission.
- 33               (6)    To designate a fiscal agent.
- 34               (7)    To perform any lawful acts necessary or appropriate to achieve the purposes  
35               of the Commission.
- 36          (d)    Membership. – The Commission shall consist of 17 members as follows:
- 37               (1)    Two representatives from the public at large who are residents of the  
38               mountain region of Western North Carolina appointed by the Speaker of the  
39               House of Representatives.
- 40               (2)    Two representatives from the public at large who are residents of the  
41               mountain region of Western North Carolina appointed by the President Pro  
42               Tempore of the Senate.
- 43               (3)    Six representatives from the public at large who are residents of the  
44               mountain region of Western North Carolina appointed by the Governor,  
45               including:
- 46                   a.    Four who shall at the time of appointment be actively connected with  
47                   or have experience in local government within the mountain region  
48                   of Western North Carolina.
- 49                   b.    One who shall at the time of appointment be actively associated with  
50                   a land trust organization working in Western North Carolina.

1 c. One who shall at the time of appointment have experience in tourism  
2 or tourism development in the mountain region of Western North  
3 Carolina.

4 (4) One member to represent the North Carolina National Parks, Parkway and  
5 Forests Development Council.

6 (5) Five members to represent each of the following regional councils of  
7 government as appointed by those councils: the Southwestern North  
8 Carolina Planning and Economic Development Commission, the Isothermal  
9 Planning and Development Commission, the High Country Council of  
10 Governments, the Western Piedmont Council of Governments, and the Land  
11 of Sky Regional Council.

12 (6) One representative appointed by the board of the Blue Ridge National  
13 Heritage Area.

14 The members of the Commission shall elect a chair, vice-chair, and any other officers they  
15 consider necessary and shall determine the length of the term of office, not to exceed two years,  
16 of each officer. A majority of the Commission shall constitute a quorum. Each member  
17 appointed to the Commission shall be appointed to serve a four-year term. Any vacancy on the  
18 Commission shall be filled by the original appointing authority for the remainder of the  
19 unexpired term. Initial terms commence September 1, 2009.

20 (e) Salary; Expenses. – Members of the Commission shall receive no salary for their  
21 service on the Commission but may receive per diem, subsistence, and travel allowances in  
22 accordance with G.S. 120-3.1, 138-5, or 138-6, as appropriate. All expenses shall be paid from  
23 funds available to the Commission through the Mountain Area Resources Fund, but no  
24 expenses shall be paid if the Mountain Area Resources Fund lacks the necessary funds.

25 (f) Staff Support. – The Department of Environment and Natural Resources shall  
26 provide staff support and facilities to the Commission within the existing programs of the  
27 agency. Additional staff may be hired or contracted by the Commission through funds raised by  
28 or provided to it. The duties and compensation of any additional staff shall be determined and  
29 fixed by the Commission within available resources.

30 (g) State Agency Cooperation. – All agencies of the State of North Carolina shall  
31 cooperate with the Commission and, upon request, shall assist the Commission in fulfilling its  
32 responsibilities. The Secretary of Environment and Natural Resources or the Secretary's  
33 designee shall serve as the liaison between the Secretary's agency and the Commission. The  
34 Commission may obtain information and data upon request from all officers, agents, agencies,  
35 and departments of the State of North Carolina or of local governments while in discharge of its  
36 duties.

37 (h) The Commission shall work in partnership with the Blue Ridge National Heritage  
38 Area to protect the important mountain resources across the mountain region of Western North  
39 Carolina.

40 (i) The role of the Commission is advisory in nature and in no way shall the  
41 Commission be construed to have regulatory authority.

42 **"§ 153B-5. Mountain Area Resources Technical Advisory Council.**

43 (a) Creation. – There is hereby created a council to be known as the Mountain Area  
44 Resources Technical Advisory Council.

45 (b) The Council shall consist of not more than 13 members appointed by the Mountain  
46 Resources Commission to include environmental, engineering, planning, and State and local  
47 government professionals with expertise and experience to contribute to the work of the  
48 Commission.

49 (c) Functions and Duties. – The Council shall assist the Commission in an advisory  
50 capacity. The Council shall meet on such schedule and provide such assistance as may be  
51 requested of it by the Commission.

1        (d) Members; Multiple Offices. – Membership on the Mountain Area Resources  
2 Technical Advisory Council is hereby declared to be an office that may be held concurrently  
3 with other elective or appointive offices (except the office of Commission member) in addition  
4 to the maximum number of offices permitted to be held by one person under G.S. 128-1.1.

5        (e) Chairman and Vice-Chairman. – A chairman and vice-chairman shall be elected  
6 annually by the Council.

7        (f) Compensation. – The members of the Advisory Council who are not State  
8 employees may receive per diem and necessary travel and subsistence expenses in accordance  
9 with the provisions of G.S. 138-5. All expenses shall be paid from funds available to the  
10 Commission through the Mountain Area Resources Fund, but no expenses shall be paid if the  
11 Mountain Area Resources Fund lacks the necessary funds."

12                **SECTION 2.** This act is effective when it becomes law.