

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 215  
Committee Substitute Favorable 3/14/91

Short Title: Cumberland Memorial Auditorium Comm.

(Local)

Sponsors:

Referred to:

March 6, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE STATUTES GOVERNING THE CUMBERLAND  
3 MEMORIAL AUDITORIUM COMMISSION.

4 Whereas, the General Assembly, on April 28, 1965, created the Cumberland  
5 Memorial Auditorium Commission to provide the most efficient management and  
6 beneficial use and enjoyment of the Cumberland County Auditorium and its facilities;  
7 and

8 Whereas, there is a need to change the name, organization, and functions of  
9 the Cumberland Memorial Auditorium Commission; Now, therefore,  
10 The General Assembly of North Carolina enacts:

11 Section 1. Section 1 of Chapter 360 of the 1965 Session Laws, as amended  
12 by Section 6 of Chapter 983 of the 1984 Session Laws, reads as rewritten:

13 "(a) ~~Cumberland Auditorium-County Civic Center~~ Commission. There is hereby  
14 created in Cumberland County a commission to be known as the Cumberland Memorial  
15 ~~Auditorium-County Civic Center~~ Commission which shall have the powers and duties  
16 hereinafter set forth.

17 (b) Membership; Terms of Office. ~~The Commission shall consist of fifteen (15)~~  
18 ~~members who shall be residents of Cumberland County appointed by the Board of~~  
19 ~~County Commissioners of Cumberland County immediately after the date when this Act~~  
20 ~~becomes effective. The Commission shall consist of 16 members. Fifteen members~~  
21 shall be residents of Cumberland County and shall be appointed by the Board of County  
22 Commissioners. The sixteenth member shall be the County Manager of Cumberland

1 County who shall serve in an ex officio and nonvoting capacity and without limit as to  
2 term.

- 3 (1) Five ~~(5)~~ of the first members of the Commission shall be appointed for  
4 a term of one ~~(1)~~ year, five ~~(5)~~ for a term of two ~~(2)~~ years, and five ~~(5)~~  
5 for a term of three ~~(3)~~ years. Upon the expiration of each of the terms,  
6 the Board of County Commissioners shall appoint successor members  
7 of the Commission who shall each serve for terms of three ~~(3)~~ years  
8 and until their successors are appointed for like terms. Any member of  
9 the Commission may be reappointed for successive terms.
- 10 (2) Vacancies occurring on the Commission otherwise than by expiration  
11 of a term shall be filled by appointment for the unexpired term of the  
12 vacant office.
- 13 (3) From its membership the Commission shall at its first meeting, and  
14 annually thereafter, elect a ~~chairman, vice chairman, and secretary.~~  
15 Chairman, Vice-Chairman, and Secretary. These officers shall hold  
16 office for one year or until their successors are duly elected. The  
17 ~~County Manager of Cumberland County shall by virtue of his office also be~~  
18 ~~the treasurer of the Commission. All funds received or handled by the~~  
19 ~~Commission shall be subject to the control of the treasurer who shall~~  
20 ~~prescribe the way and manner all such funds shall be collected, held,~~  
21 ~~disbursed and accounted for. A yearly budget shall be prepared and~~  
22 ~~submitted to the County Board of Commissioners for approval along with~~  
23 ~~any request for an operation attached levy or any request for public funds to~~  
24 ~~be used in the operation of the auditorium facilities. The Board of County~~  
25 ~~Commissioners shall select the auditor of the Commission's accounts.~~
- 26 (4) The officers elected together with ~~one other member~~ two other members  
27 of the Commission, who will also be elected at the first meeting of the  
28 Commission and annually thereafter, shall constitute the Executive  
29 Committee of the Commission. ~~In order to provide for the most efficient~~  
30 ~~operation of the business of the Commission, the Executive Committee shall~~  
31 ~~have sole power and authority over the management and operation of the~~  
32 ~~facilities and to conduct the Commission's business within the policies as are~~  
33 ~~from time to time adopted by the Commission, and all powers and authority~~  
34 ~~not specifically reserved for action of the full Commission under its bylaws~~  
35 ~~shall be vested in the Executive Committee.~~ The Executive Committee  
36 shall perform those duties and functions specified in the bylaws of the  
37 Commission.
- 38 (5) Regular meetings of the Commission shall be held ~~quarterly and~~  
39 ~~special monthly.~~ Special meetings may be called by the ~~chairman or~~  
40 ~~any two (2) members of the Executive Committee upon twenty four 24~~  
41 ~~hours' written notice to the members stating the purpose of the~~  
42 ~~meeting.~~ Chairman or a majority of the voting members of the  
43 Commission. Attendance of ~~not less than eight (8) members~~ shall  
44 constitute a quorum for the purpose of transaction of business at any  
45 regular or special meeting.

- 1 (6) The Commission may adopt, and from time to time amend, bylaws to  
2 implement its organization and provide for the orderly conduct of its  
3 affairs.
- 4 (7) All funds received or handled by the Commission shall be subject to  
5 the control of the Finance Officer of Cumberland County who shall  
6 prescribe the way and manner these funds shall be collected, held,  
7 disbursed and accounted for. The Board of County Commissioners  
8 shall select the Auditor of the Commission's accounts.
- 9 (8) The Commission shall prepare an annual budget and submit it to the  
10 Board of County Commissioners for approval, in a format prescribed  
11 by the County Manager, along with any requests for capital  
12 improvements or any requests for public funds to be used in the  
13 construction or operation of the Civic Center facilities.
- 14 (c) Powers, Purpose and Duties of Commission. The powers, purpose and duties  
15 of the Cumberland ~~Memorial Auditorium~~ County Civic Center Commission shall include:
- 16 (1) The establishment and management of a memorial fund as a means by  
17 which donations may be solicited, received and used in the  
18 construction, equipment, decoration, maintenance or operation of the  
19 ~~auditorium,~~ Civic Center, its allied facilities and grounds and  
20 appropriate recognition made to the memory of persons to be  
21 memorialized.
- 22 (2) To assist, in advisory capacity, the Board of County Commissioners in  
23 planning for and construction of the facility, and carry out any duty or  
24 assignment expressly delegated to it by resolution of the Board of  
25 County Commissioners.
- 26 (3) To operate the ~~public auditorium~~ Civic Center facility under the terms  
27 and conditions prescribed by the Board of County Commissioners.
- 28 (4) To study, plan, and program for the highest and best use of the  
29 facilities committed to it for public use, edification and enjoyment.
- 30 (5) The power to make such reasonable rules and regulations for its own  
31 proper organization and procedure and the management, use, control,  
32 improvement, equipment, upkeep, and safekeeping of the facilities,  
33 properties, and funds committed to its charge, including the receipts  
34 and expenditures of such funds committed to its charge, including the  
35 receipts and expenditures of such funds as may be or become available  
36 for the improvement or management thereof and the use of such  
37 facilities as well as spectators' or participants' entrance fees and  
38 provided such rules and regulations do not conflict with and are not  
39 inconsistent with the laws of the State of North Carolina or ordinances  
40 of Cumberland County.
- 41 (6) The employment of a manager and ~~such~~ other employees as may be  
42 necessary for the proper implementation of the purposes and duties of  
43 the Commission.

1 (7) The power to contract and be contracted with, to rent, acquire, hold,  
2 exchange, transfer and convey property of any kind, to sue and be sued  
3 in its own name or the Cumberland ~~Memorial Auditorium~~ County Civic  
4 Center Commission as a corporate body by its officers in the same  
5 manner, as a business corporation subject to the limitations herein  
6 contained.

7 (d) Limitation on Powers. The Commission shall not have the power to perform  
8 the following:

- 9 (1) Mortgage or encumber property owned by it or under its control or  
10 supervision otherwise than as herein provided.
- 11 (2) Borrow money from any source whatsoever, but the Cumberland  
12 County Board of Commissioners may in its discretion advance and  
13 lend to the Commission in anticipation of uncollected taxes such sums,  
14 not exceeding in the aggregate at any time the total amount of taxes  
15 theretofore levied for the purposes of the Commission and the  
16 remaining uncollected, and shall reimburse itself for such amounts out  
17 of such taxes as and when collected. Provided also these limitations  
18 shall not be construed to prohibit purchases by the Commission on a  
19 time or deferred payment plan or purchase contract.
- 20 (3) Use any property or funds belonging to the Commission or under its  
21 control for any pecuniary gain whatsoever of any member of the  
22 Commission, nor shall the Commission purchase from, contract with,  
23 nor grant license or concession to any person, firm or corporation in  
24 which any member of the Commission has a monetary interest directly  
25 or indirectly.
- 26 (4) Collect, receive, deposit, disburse, or otherwise handle, and account  
27 for all funds only in such manner as is prescribed by the ~~Treasurer~~  
28 Finance Officer of Cumberland County.
- 29 (5) No member of the Commission shall receive or accept any fee,  
30 gratuity or thing of value in payment for any act to be done or not to be  
31 done by the Commission save and except such salary as may be  
32 prescribed by the Board of County Commissioners.
- 33 (6) Upon dissolution of the Commission or upon termination of its  
34 connection with the operation of the facilities by resolution of the  
35 Board of County Commissioners, all funds and property acquired, held  
36 or accumulated by the Commission shall become the funds and  
37 property of Cumberland County."

38 Sec. 2. Section 3 of Chapter 360 of the 1965 Session Laws, as amended by  
39 Section 6 of Chapter 983 of the 1984 Session Laws, reads as rewritten:

40 "Sec. 3. Special auditorium tax funds, if authorized and levied, and nontax revenues  
41 may, in the discretion of the Board of County Commissioners, be turned over to the  
42 Commission to be used in operating, equipping, improving and maintaining.  
43 Occupancy tax revenues as authorized in AN ACT TO AUTHORIZE AND  
44 IMPLEMENT AN OCCUPANCY TAX IN CUMBERLAND COUNTY may be

1 utilized by the ~~Auditorium~~ County Civic Center Commission, as approved by the ~~board~~  
2 ~~of county commissioners,~~ Board of County Commissioners, in aiding and encouraging  
3 convention and visitor promotion in Cumberland County."

4           Sec. 3. This act is effective upon ratification.