

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2003**

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**HOUSE BILL 1703**

Short Title: Avery/Heritage Park Authority. (Local)

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Sponsors: Representative Frye.

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Referred to: Local Government II.

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May 27, 2004

A BILL TO BE ENTITLED

AN ACT CREATING THE HERITAGE PARK AUTHORITY IN AVERY COUNTY.

The General Assembly of North Carolina enacts:

**SECTION 1.** Creation. – The Heritage Park Authority (Park Authority) is created. The Park Authority is a body politic and corporate having the powers and jurisdiction hereinafter enumerated and such other and additional powers as shall be conferred upon it by general law, by future acts of the General Assembly, or by resolution of the Avery County Board of Commissioners. The Park Authority will become effective when all members are appointed by the Avery County Board of Commissioners.

**SECTION 2.** Terms of Office. – The Park Authority shall consist of nine members appointed by the Avery County Board of Commissioners. All members shall be permanent residents of Avery County. Of the initial nine members, four members shall be appointed to two-years term, and the remaining five members shall be appointed to one-year terms. Thereafter, all terms shall be for two-year staggered terms. Each member shall take and subscribe to an oath of office supporting the Constitution and applicable laws of the United States, the State of North Carolina, and the requirements set forth in this act. The same oath shall be filed with the Avery County Board of Commissioners. The Avery County Manager shall serve as a nonvoting ex officio member and liaison to Avery County Board of Commissioners. No member of the Avery County Board of Commissioners, nor any other elected official in Avery County, may serve on the Authority.

**SECTION 3.** Membership. – The membership of the Park Authority shall be appointed by the Avery County Board of Commissioners, as follows:

- (1) One member shall be recommended by the Avery County Agricultural and Horticultural Fair Board.
- (2) One member shall be recommended by the Avery County Recreational Advisory Committee.

1 (3) Six members to represent local municipalities, with the Town Councils  
2 of Beech Mountain, Banner Elk, Sugar Mountain, Newland, Elk Park,  
3 and Crossnore recommending one member each. Persons  
4 recommended for these seats must reside in the respective  
5 communities that they represent.

6 (4) One member to represent the southern portion of Avery County, upon  
7 the recommendation of the Green Valley and Frank Volunteer Fire  
8 Departments. This member must reside in the community represented.

9 Regardless of the organization recommending a candidate for appointment,  
10 each recommending entity shall have no more than one representative on the Park  
11 Authority such that each candidate must be independent of each other entity and may  
12 not be associated in any business capacity with the remaining entities. The Avery  
13 County Manager shall determine compliance with this section with regards to the  
14 candidate's application. The Avery County Board of Commissioners reserves the right  
15 to dismiss any or all members of the Park Authority for cause as defined in the terms  
16 and conditions of the Park Authority Bylaws and Policy and Procedure Manual, as  
17 adopted by the Avery County Board of Commissioners.

18 **SECTION 4. Officers.** – The officers of the Park Authority shall consist of a  
19 chair, a vice-chair, and a secretary/clerk.

20 (1) Election and Term. – At the first meeting of each calendar year, the  
21 Park Authority shall elect from its own membership, by majority vote,  
22 a chair, a vice-chair, and a secretary/clerk, each of whom shall serve  
23 for one year or until the officer's death, resignation, retirement, or  
24 removal.

25 (2) Removal. – The chair, vice-chair, or secretary/clerk may be removed  
26 from office by a simple majority vote of the Park Authority, whenever  
27 in its judgment, the removal is in the best interest of the Park  
28 Authority.

29 (3) Vacancies. – The Park Authority shall fill any vacant officer's position  
30 within 30 days.

31 **SECTION 5. Duties of the Officers.**

32 (1) Chair.– The chair shall preside at all meetings of the Park Authority,  
33 appoint all subcommittees, serve as a voting ex officio member of the  
34 committees, delegate responsibilities to members, notify members and  
35 the media of meeting times and dates, and, upon approval of the  
36 Authority members, sign all minutes and any records, vouchers, or  
37 other documents connected with the work of the Park Authority  
38 requiring a signature. The chair is responsible for the decorum of  
39 meetings and may remove from the meeting, by simple majority vote,  
40 any member who is deemed to be disruptive.

41 (2) Vice-Chair. – In the absence of the chair, the vice-chair shall perform  
42 the duties of the chair. The vice-chair shall also exercise any duties as  
43 from time to time may be assigned to him by the chair of the Park  
44 Authority.

1           (3) Secretary/Clerk. – The secretary/clerk shall record and maintain the  
2           actions of the Park Authority, maintain and secure all pertinent Park  
3           Authority materials, and ensure adequate correspondence with Park  
4           Authority members.

5           **SECTION 6.** Meetings. – The Park Authority shall meet at least monthly for  
6           regular meetings. The regular meeting shall be held in a public facility convenient to  
7           the public, preferably at the County Office Building. The chair may call special  
8           meetings (i) as may be deemed necessary to carry out the duties of the Park Authority,  
9           or (ii) within 10 days of a written request of at least four members. Notice of a special  
10          meeting shall be given to all Park Authority members and to the public at least 48 hours  
11          in advance of the meeting. Five or more members shall constitute a quorum to conduct  
12          business. Notice of the agenda items and supporting material to be considered at each  
13          regular meeting shall be communicated to all members at least three days prior to each  
14          meeting. Meetings shall be conducted in strict compliance with the Policy and  
15          Procedures Manual adopted by the Park Authority.

16          **SECTION 7.** Voting. – Each Park Authority member shall be entitled to one  
17          vote. Members must register their request to abstain from voting on matters that would  
18          pose a conflict of interest for the abstaining member. Abstentions shall be allowed only  
19          by approval of a majority of the remaining members. If a member leaves the room in an  
20          effort to avoid voting and the member's absence breaks a quorum, the members' vote  
21          shall be recorded as an affirmative vote.

22          **SECTION 8.** Open Process. – Records of the Park Authority are subject to  
23          Chapter 132 of the General Statutes, the Public Records Act. Meetings of the Park  
24          Authority are subject to Article 33C of Chapter 143 of the General Statutes, the Open  
25          Meetings Act.

26          **SECTION 9.** Policies and Amendments. – The Park Authority shall adopt a  
27          Policy and Procedures Manual. The Avery County Board of Commissioners shall  
28          approve the adoption and amendment of the Manual.

29          **SECTION 10.** Severability. – If any section or provision of this act is  
30          declared unconstitutional or invalid by the courts, it does not affect the validity of this  
31          act as a whole or any part other than the part so declared to be unconstitutional or  
32          invalid.

33          **SECTION 11.** This act is effective when it becomes law.