

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 993
Committee Substitute Favorable 6/4/97

Short Title: Regional Transportation Authorities.

(Public)

Sponsors:

Referred to:

April 17, 1997

A BILL TO BE ENTITLED
AN ACT TO ALLOW CREATION OF ADDITIONAL REGIONAL
TRANSPORTATION AUTHORITIES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 160A of the General Statutes is amended by adding a new
Article to read:

“ARTICLE 27.

“REGIONAL TRANSPORTATION AUTHORITY.

“§ 160A-630. Title.

This Article shall be known and may be cited as the ‘Regional Transportation
Authority Act.’

“§ 160A-631. Definitions.

As used in this Article, unless the context otherwise requires:

- (1) ‘Authority’ means a Regional Transportation Authority as defined by
subdivision (6) of this section.
- (2) ‘Board of Trustees’ means the governing board of the Authority, in
which the general legislative powers of the Authority are vested.
- (3) ‘Population’ means the number of persons residing in respective areas as
defined and enumerated in the most recent decennial federal census.

- 1 (4) 'Public transportation' means transportation of passengers whether or
2 not for hire by any means of conveyance, including, but not limited to, a
3 street or elevated railway or guideway, subway, motor vehicle or motor
4 bus, carpool or vanpool, either publicly or privately owned and
5 operated, holding itself out to the general public for the transportation of
6 persons within or working within the territorial jurisdiction of the
7 Authority, excluding charter, tour, or sight-seeing service.
- 8 (5) 'Public transportation system' means, without limitation, a combination
9 of real and personal property, structures, improvements, buildings,
10 equipment, vehicle parking, or other facilities, railroads and railroad
11 rights-of-way whether held in fee simple by quitclaim or easement, and
12 rights-of-way, or any combination thereof, used or useful for the
13 purposes of public transportation. 'Public transportation system'
14 however, does not include streets, roads, or highways except those for
15 ingress and egress to vehicle parking.
- 16 (6) 'Regional Transportation Authority,' means a body corporate and politic
17 organized in accordance with the provisions of this Article for the
18 purposes, with the powers and subject to the restrictions hereinafter set
19 forth.
- 20 (7) 'Unit of local government' means any county, city, town or municipality
21 of this State, and any other political subdivision, public corporation,
22 Authority, or district in this State, which is or may be authorized by law
23 to acquire, establish, construct, enlarge, improve, maintain, own, and
24 operate public transportation systems.
- 25 (8) 'Unit of local government's chief administrative official' means the
26 county manager, city manager, town manager, or other person, by
27 whatever title he shall be known, in whom the responsibility for the unit
28 of local government's administrative duties is vested.

29 **"§ 160A-632. Definition of territorial jurisdiction of Authority.**

30 An authority may be created for the area of any Metropolitan Planning Organization
31 of the State that, at the time of creation of the authority, meets the following criteria, such
32 area being the initial territorial jurisdiction of the Authority:

- 33 (1) The area consists of all or part of five counties, all five counties of
34 which form a contiguous territory;
- 35 (2) At least two of those counties are contiguous to each other and each
36 have a population of 250,000 or over; and
- 37 (3) The other three counties each have a population of 100,000 or over.

38 **"§ 160A-633. Creation of Authority.**

39 (a) The city councils of the four largest cities within an area for which an authority
40 may be created as defined in G.S. 160A-632 may by resolution signify their
41 determination to organize an authority under the provisions of this Article. Each of such
42 resolutions shall be adopted after a public hearing thereon, notice of which hearing shall
43 be given by publication at least once, not less than 10 days prior to the date fixed for such

1 hearing, in a newspaper having a general circulation in the county. Such notice shall
2 contain a brief statement of the substance of the proposed resolution, shall set forth the
3 proposed articles of incorporation of the Authority and shall state the time and place of
4 the public hearing to be held thereof. No city shall be required to make any other
5 publication of such resolution under the provisions of any other law.

6 (b) Each such resolution shall include articles of incorporation which shall set
7 forth:

8 (1) The name of the authority;

9 (2) A statement that such authority is organized under this Article; and

10 (3) The names of the four organizing cities.

11 (c) A certified copy of each of such resolutions signifying the determination to
12 organize an authority under the provisions of this Article shall be filed with the Secretary
13 of State, together with proof of publication of the notice of hearing on each of such
14 resolutions. If the Secretary of State finds that the resolutions, including the articles of
15 incorporation, conform to the provisions of this Article and that the notices of hearing
16 were properly published, he shall file such resolutions and proofs of publication in his
17 office and shall issue a certificate of incorporation under the seal of the State and shall
18 record the same in an appropriate book of record in his office. The issuance of such
19 certificate of incorporation by the Secretary of State shall constitute the Authority, a
20 public body and body politic and corporate of the State of North Carolina. Said
21 certificate of incorporation shall be conclusive evidence of the fact that such authority has
22 been duly created and established under the provisions of this Article.

23 (d) When the Authority has been duly organized and its officers elected as herein
24 provided, the secretary of the Authority shall certify to the Secretary of State the names
25 and addresses of such officers as well as the address of the principal office of the
26 Authority.

27 (e) The Authority may become a Designated Recipient pursuant to the Urban
28 Mass Transportation Act of 1964, as amended.

29 **"§ 160A-634. Territorial jurisdiction and service area of the Authority.**

30 The territorial jurisdiction and service area of the Authority shall be as determined by
31 the Board of Trustees consistent with its purpose, but shall initially consist of those areas
32 included within the Metropolitan Planning Organization boundaries. With the consent by
33 resolution of the affected board of county commissioners, the jurisdiction and area may
34 be expanded to include contiguous areas, but the total jurisdiction and service area shall
35 not exceed part or all of 12 counties.

36 (b) Except as provided by this Article, the jurisdiction of the Authority may
37 include all local public passenger transportation operating within the territorial
38 jurisdiction of the Authority, but the Authority may not take over the operation of any
39 existing public transportation without the consent of the owner.

40 (c) The Authority shall not have jurisdiction over public transportation subject to
41 the jurisdiction of and regulated by the United States Department of Transportation, nor
42 shall it have jurisdiction over intrastate public transportation classified as common
43 carriers of passengers by the North Carolina Utilities Commission.

"§ 160A-635. Membership; officers; compensation.

(a) The governing body of an authority is the Board of Trustees. The Board of Trustees shall consist of:

(1) The mayor of the four cities within the service area that have the largest population, or a member of the city council designated by the city council to serve in the absence of the mayor.

(2) Two members of the Board of Transportation appointed by the Secretary of Transportation, to serve as ex officio nonvoting members.

(3) The chair of each Metropolitan Planning Organization in the territorial jurisdiction.

(4) The chair of the board of commissioners of any county within the territorial jurisdiction or a member of the board of commissioners designated by the board to serve in the absence of the chair, but only if the Board of Trustees by resolution has expanded the Board of Trustees to include the chair of the board of commissioners of that county and the board of commissioners of that county has consented by resolution.

(b) The members appointed by the Secretary of Transportation shall serve at the pleasure of the Secretary.

(c) Service on the Board of Trustees may be in addition to any other office which a person is entitled to hold. Each voting member of the Board of Trustees may hold elective public office as defined by G.S. 128-1.1(d).

(d) Members of the Board of Trustees shall reside within the territorial jurisdiction of the Authority as defined by G.S. 160A-634.

(e) The Board of Trustees shall annually elect from its membership a Chairperson, and a Vice-Chairperson, and shall annually elect a Secretary, and a Treasurer.

(f) Members of the Board of Trustees shall receive the sum of fifty dollars (\$50.00) as compensation for attendance at each duly conducted meeting of the Authority.

"§ 160A-636. Voting.

A majority of the members of the Board of Trustees shall constitute a quorum for the transaction of business. Except as provided by G.S. 160A-635(a)(2), each member shall have one vote.

"§ 160A-637. Advisory committees.

The Board of Trustees may provide for the selection of such advisory committees as it may find appropriate, which may or may not include members of the Board of Trustees.

"§ 160A-638. Purpose of the Authority.

The purpose of the authority is to enhance the quality of life in its territorial jurisdiction by promoting the development of sound transportation systems which provide transportation choices, enhance mobility, accessibility, and safety, encourage economic development and sound growth patterns, and protect the man-made and natural environments of the region.

"§ 160A-639. General powers of the Authority.

The general powers of the Authority shall include any or all of the following:

- 1 (1) To sue and be sued;
- 2 (2) To have a seal;
- 3 (3) To make rules and regulations, not inconsistent with this Chapter, for its
4 organization and internal management;
- 5 (4) To employ persons deemed necessary to carry out the functions and
6 duties assigned to them by the Authority and to fix their compensation,
7 within the limit of available funds;
- 8 (5) With the approval of the unit of local government's chief administrative
9 official, to use officers, employees, agents, and facilities of the unit of
10 local government for such purposes and upon such terms as may be
11 mutually agreeable;
- 12 (6) To retain and employ counsel, auditors, engineers, and private
13 consultants on an annual salary, contract basis, or otherwise for
14 rendering professional or technical services and advice;
- 15 (7) To acquire, lease as lessee with or without option to purchase, hold,
16 own, and use any franchise, property, real or personal, tangible or
17 intangible, or any interest therein, and to sell, lease as lessor with or
18 without option to purchase, transfer (or dispose thereof) whenever the
19 same is no longer required for purposes of the Authority, or exchange
20 same for other property or rights which are useful for the Authority's
21 purposes, including but not necessarily limited to parking facilities;
- 22 (8) To acquire by gift, purchase, lease as lessee with or without option to
23 purchase or otherwise to construct, improve, maintain, repair, operate,
24 or administer any component parts of a public transportation system or
25 to contract for the maintenance, operation or administration thereof, or
26 to lease as lessor the same for maintenance, operation, or administration
27 by private parties, including, but not necessarily limited to, parking
28 facilities;
- 29 (9) To make or enter into contracts, agreements, deeds, leases with or
30 without option to purchase, conveyances or other instruments, including
31 contracts and agreements with the United States, the State of North
32 Carolina, and units of local government;
- 33 (10) To surrender to the State of North Carolina any property no longer
34 required by the Authority;
- 35 (11) To develop and make data, plans, information, surveys and studies of
36 public transportation facilities within the territorial jurisdiction of the
37 Authority, to prepare and make recommendations in regard thereto;
- 38 (12) To enter in a reasonable manner lands, waters, or premises for the
39 purpose of making surveys, soundings, drillings, and examinations
40 whereby such entry shall not be deemed a trespass except that the
41 Authority shall be liable for any actual and consequential damages
42 resulting from such entries;
- 43 (13) To develop and carry out demonstration projects;

- 1 (14) To make, enter into, and perform contracts with private parties, and
2 public transportation companies with respect to the management and
3 operation of public passenger transportation;
- 4 (15) To make, enter into, and perform contracts with any public utility,
5 railroad or transportation company for the joint use of property or rights,
6 for the establishment of through routes, joint fares, or transfer of
7 passengers;
- 8 (16) To make, enter into, and perform agreements with governmental entities
9 for payments to the Authority for the transportation of persons for
10 whom the governmental entities desire transportation;
- 11 (17) With the consent of the unit of local government which would otherwise
12 have jurisdiction to exercise the powers enumerated in this subdivision:
13 to issue certificates of public convenience and necessity; and to grant
14 franchises and enter into franchise agreements, and in all respects to
15 regulate the operation of buses, taxicabs, and other methods of public
16 passenger transportation which originate and terminate within the
17 territorial jurisdiction of the Authority as fully as the unit of local
18 government is now or hereafter empowered to do within the territorial
19 jurisdiction of the unit of local government;
- 20 (18) To operate public transportation systems and to enter into and perform
21 contracts to operate public transportation services and facilities, and to
22 own or lease property, facilities and equipment necessary or convenient
23 therefor, and to rent, lease or otherwise sell the right to do so to any
24 person, public or private; further, to obtain grants, loans, and assistance
25 from the United States, the State of North Carolina, any public body, or
26 any private source whatsoever, but may not operate or contract for the
27 operation of public transportation systems outside the territorial
28 jurisdiction of the Authority except as provided by subdivision (20) of
29 this section;
- 30 (19) To enter into and perform contracts and agreements with other public
31 transportation authorities, regional public transportation authorities, or
32 units of local government pursuant to the provisions of G.S. 160A-460
33 through 160A-464 (Part 1 of Article 20 of Chapter 160A of the General
34 Statutes); further to enter into contracts and agreements with private
35 transportation companies, but this subdivision does not authorize the
36 operation of, or contracting for the operation of, service of a public
37 transportation system outside the service area of the Authority;
- 38 (20) To operate public transportation systems extending service into any
39 political subdivision of the State of North Carolina unless a particular
40 unit of local government operating its own public transportation system
41 or franchising the operation of a public transportation system by
42 majority vote of its governing board, shall deny consent, but such
43 service may not extend more than 10 miles outside of the territorial

1 jurisdiction of the authority, except that vanpool and carpool service
2 shall not be subject to that mileage limitation;

3 (21) Except as restricted by covenants in bonds, notes, or equipment trust
4 certificates, to set in its sole discretion rates, fees, and charges for use of
5 its public transportation system;

6 (22) To do all things necessary or convenient to carry out its purpose and to
7 exercise the powers granted to the Authority;

8 (23) To facilitate the coordination of transportation plans in the service area
9 and the activities of the member Metropolitan Planning Organizations;

10 (24) To maintain databases for the projection of future travel demands in the
11 region;

12 (25) To provide and operate regional ridesharing and vanpool operations;

13 (26) To provide and operate regional transportation services for the elderly
14 and handicapped;

15 (27) To provide other transportation related services, including air quality
16 monitoring and analysis, as determined by the Board of Trustees;

17 (28) To issue bonds or other obligations of the Authority as provided by law
18 and apply the proceeds thereof to the financing of any public
19 transportation system or any part thereof and to refund, whether or not
20 in advance of maturity or the earliest redemption date, any such bonds
21 or other obligations; and

22 (29) To contract for, or to provide and maintain, with respect to the facilities
23 and property owned, leased with or without option to purchase, operated
24 or under the control of the Authority, and within the territory thereof, a
25 security force to protect persons and property, dispense unlawful or
26 dangerous assemblages and assemblages which obstruct full and free
27 passage, control pedestrian and vehicular traffic, and otherwise preserve
28 and protect the public peace, health, and safety; for these purposes a
29 member of such force shall be a peace officer and, as such, shall have
30 authority equivalent to the authority of a police officer of the city or
31 county in which said member of such force is discharging such duties.

32 **"§ 160A-640. Authority of Utilities Commission not affected.**

33 (a) Except as otherwise provided in this Article, nothing in this Article shall be
34 construed to limit or otherwise affect the power or authority of the North Carolina
35 Utilities Commission or the right of appeal to the North Carolina Utilities Commission as
36 provided by law.

37 (b) The North Carolina Utilities Commission shall not have jurisdiction over rates,
38 fees, charges, routes, and schedules of an Authority for service within its territorial
39 jurisdiction.

40 **"§ 160A-641. Fiscal accountability.**

41 An Authority is a public authority subject to the provisions of Chapter 159 of the
42 General Statutes.

43 **"§ 160A-642. Funds.**

1 The establishment and operation of an Authority are governmental functions and
2 constitute a public purpose, and the State of North Carolina and any unit of local
3 government may appropriate funds to support the establishment and operation of the
4 Authority. The State of North Carolina and any unit of local government may also
5 dedicate, sell, convey, donate, or lease any of their interests in any property to the
6 Authority. An Authority may apply for grants from the State of North Carolina, or from
7 the United States or any department, agency, or instrumentality thereof. The Department
8 of Transportation may allocate to an Authority any funds appropriated for transportation,
9 or any funds whose use is not restricted by law.

10 **"§ 160A-643. Competition.**

11 No equipment of the Authority may be used for charter, tour, or sight-seeing service.

12 **"§ 160A-644. Effect on existing franchises and operations.**

13 Creation of the Authority shall not have an effect on any existing franchises granted
14 by any unit of local government; such existing franchises shall continue in full force and
15 effect until legally terminated; further, all ordinances and resolutions of the unit of local
16 government regulating local public transportation systems, bus operations, and taxicabs
17 shall continue in full force and effect now and in the future, unless superseded by
18 regulations of the Authority; such superseding, if any, may occur only on the basis of
19 prior mutual agreement between the Authority and the respective unit of local
20 government.

21 **"§ 160A-645. Termination.**

22 The Board of Trustees may terminate the existence of the Authority at any time when
23 it has no outstanding indebtedness. In the event of such termination, all property and
24 assets of the Authority not otherwise encumbered shall automatically become the
25 property of the State of North Carolina, and the State of North Carolina shall succeed to
26 all rights, obligations, and liabilities of the Authority.

27 **"§ 160A-646. Controlling provisions.**

28 Insofar as the provisions of this Article are not consistent with the provisions of any
29 other law, public or private, the provisions of this Article shall be controlling.

30 **"§ 160A-647. Bonds and notes authorized.**

31 In addition to the powers granted by this Article, the Authority may issue bonds and
32 notes pursuant to the provisions of the Local Government Revenue Bond Act for the
33 purpose of financing public transportation systems or any part thereof and to refund such
34 bonds and notes, whether or not in advance of their maturity or earliest redemption date.

35 **"§ 160A-648. Equipment trust certificates.**

36 In addition to the powers here and before granted, the Authority shall have continuing
37 power to purchase equipment, and in connection therewith execute agreements, leases
38 with or without option to purchase, or equipment trust certificates. All money required to
39 be paid by the Authority under the provisions of such agreements, leases with or without
40 option to purchase, and equipment trust certificates shall be payable solely from the fares,
41 fees, rentals, charges, revenues, and earnings of the Authority, monies derived from the
42 sale of any surplus property of the Authority and gifts, grants, and contributions from any
43 source whatever. Payment for such equipment or rentals therefore, may be made in

1 installments; the deferred installments may be evidenced by equipment trust certificates
2 payable solely from the aforesaid revenues or receipts, and title to such equipment may or
3 may not vest in the Authority until the equipment trust certificates are paid.

4 **"§ 160A-649. Power of eminent domain.**

5 (a) The Authority shall have continuing power to acquire, by gift, grant, devise,
6 bequest, exchange, purchase, lease with or without option to purchase, or any other
7 lawful method, including, but not limited to, the power of eminent domain, the fee or any
8 lesser interest in real or personal property for use by the Authority.

9 (b) Exercise of the power of eminent domain by the Authority shall be in
10 accordance with Chapter 40A of the General Statutes.

11 **"§ 160A-650. Tax exemption.**

12 The property of the Authority, both real and personal, its acts, activities, and income
13 shall be exempt from any tax or tax obligation; in the event of any lease of Authority
14 property, or other arrangement which amounts to a leasehold interest, to a private party,
15 this exemption shall not apply to the value of such leasehold interest nor shall it apply to
16 the income of the lessee. Otherwise, however, for the purpose of taxation, when property
17 of the Authority is leased to private parties solely for the purpose of the Authority, the
18 acts and activities of the lessee shall be considered as the acts and activities of the
19 Authority and the exemption. The interest on bonds or obligations issued by the
20 Authority shall be exempt from State taxes.

21 **"§ 160A-651. Removal and relocation of utility structures.**

22 (a) The Authority shall have the power to require any public utility, railroad, or
23 other public service corporation owning or operating any installations, structures,
24 equipment, apparatus, appliances, or facilities in, upon, under, over, across or along any
25 ways on which the Authority has the right to own, construct, operate, or maintain its
26 public transportation system, to relocate such installation, structures, equipment,
27 apparatus, appliances, or facilities from their locations, or, in the sole discretion of the
28 affected public utility, railroad, or other public service corporation, to remove such
29 installations, structures, equipment, apparatus, appliances, or facilities from their
30 locations.

31 (b) If the owner or operator thereof fails or refuses to relocate them, the Authority
32 may proceed to do so.

33 (b1) The Authority shall provide any necessary new locations and necessary real
34 estate interests for such relocation, and for that purpose the power of eminent domain as
35 provided in G.S. 160A-649 may be exercised provided the new locations shall not be in,
36 on or above, a public highway; the Authority may also acquire the necessary new
37 locations by purchase or otherwise.

38 (b2) Any affected public utility, railroad, or other public service corporation shall
39 be compensated for any real estate interest taken in a manner consistent with G.S. 160A-
40 649, subject to the right of the Authority to reduce the compensation due by the value of
41 any property exchanged under this section.

1 (b3) The method and procedures of a particular adjustment to the facilities of a
2 public utility, railroad, or other public service corporation shall be covered by an
3 agreement between the Authority and the affected party or parties.

4 (c) The Authority shall reimburse the public utility, railroad, or other public
5 service corporation, for the cost of relocations or removals which shall be the entire
6 amount paid or incurred by the utility properly attributable thereto after deducting the
7 cost of any increase in the service capacity of the new installations, structures, equipment,
8 apparatus, appliances, or facilities and any salvage value derived from the old
9 installations, structures, equipment, apparatus or appliances."

10 Section 2. G.S. 105-164.14(c)(15) reads as rewritten:

11 "(15) A regional public transportation authority created pursuant to Article 26
12 of Chapter 160A of the General ~~Statutes.~~ Statutes, or a Regional
13 Transportation Authority created pursuant to Article 27 of Chapter
14 160A of the General Statutes."

15 Section 3. G.S. 159-81(1) reads as rewritten:

16 "(1) 'Municipality' means a county, city, town, incorporated village, sanitary
17 district, metropolitan sewerage district, metropolitan water district,
18 county water and sewer district, water and sewer authority, hospital
19 authority, hospital district, parking authority, special airport district,
20 regional public transportation authority, Regional Transportation
21 Authority, regional sports authority, airport authority, joint agency
22 created pursuant to Part 1 of Article 20 of Chapter 160A of the General
23 Statutes, and joint agency authorized by agreement between two cities
24 to operate an airport pursuant to G.S. 63-56, but not any other forms of
25 local government."

26 Section 3.1. If Senate Bill 352 is enacted and provides that funds appropriated
27 to the Department of Transportation for the 1997-98 fiscal year shall be used to fund a
28 Major Investment Study (MIS) which shall include:

29 (1) A passenger rail proposal providing service between Asheville and
30 Raleigh through Winston-Salem generally following the I-40 corridor;
31 and

32 (2) A passenger rail proposal providing for commuter rail services between
33 Winston-Salem, Greensboro, High Point, and outlying communities,

34 then notwithstanding that act, the MIS shall be administered by the Regional
35 Transportation Authority created under this act which includes Guilford and Forsyth
36 Counties, in consultation with the Department of Transportation, the Forsyth County
37 Metropolitan Planning Organization (MPO), the Greensboro MPO, and the High Point
38 MPO.

39 Section 4. This act is effective when it becomes law.