

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1291*
Transportation Committee Substitute Adopted 6/11/98
Transportation Committee Substitute #2 Adopted 7/15/98

Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to: Finance.

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION,
3 REGIONAL PUBLIC TRANSPORTATION AUTHORITIES, AND REGIONAL
4 TRANSPORTATION AUTHORITIES TO CREATE TRANSPORTATION
5 CORRIDORS AND PROTECT THEM FROM DEVELOPMENT, AND TO
6 INSURE PROPER NOTICE TO ALL PROPERTY OWNERS AFFECTED BY THE
7 CORRIDORS.

8 The General Assembly of North Carolina enacts:

9 Section 1. Article 2E of Chapter 136 reads as rewritten:

10 "ARTICLE 2E.

11 "~~ROADWAY~~ TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

12 "§ 136-44.50. ~~Roadway~~ Transportation corridor official map act.

13 (a) A ~~roadway-transportation~~ corridor official map may be adopted or ~~amended~~
14 amended by any of the following:

15 (1) ~~by the~~ The governing board of any city for any thoroughfare included as
16 part of a comprehensive plan for streets and highways adopted pursuant
17 to ~~G.S. 136-66.2 or G.S. 136-66.2~~ or for any proposed public

1 transportation corridor included in the adopted long-range transportation
2 plan.

3 (2) ~~by the~~ The Board of Transportation for any portion of the existing or
4 proposed State highway system, system or for any public transportation
5 corridor, to include rail, that is in the Transportation Improvement
6 Program.

7 (3) Regional public transportation authorities created pursuant to Article 26
8 of Chapter 160A of the General Statutes or regional transportation
9 authorities created pursuant to Article 27 of Chapter 160A of the
10 General Statutes for any proposed public transportation corridor
11 included in the adopted long-range transportation plan.

12 Before a city adopts a ~~roadway~~ transportation corridor official map that extends
13 beyond the extraterritorial jurisdiction of its building permit issuance and subdivision
14 control ordinances, or adopts an amendment to a ~~roadway~~ transportation corridor official
15 map outside the extraterritorial jurisdiction of its building permit issuance and
16 subdivision control ordinances, the city ~~must~~ shall obtain approval from the Board of
17 County Commissioners.

18 No ~~roadway~~ transportation corridor official map shall be adopted or amended, nor may
19 any property be regulated under this Article until:

20 (1) The governing board of the ~~city~~ city, the regional transportation
21 authority, or the Department of Transportation ~~in each county affected by~~
22 ~~the map,~~ has held a public hearing in each county affected by the map
23 on the proposed map or amendment. Notice of the hearing shall be
24 provided:

25 a. By publication at least once a week for four successive weeks
26 prior to the hearing in a newspaper having general circulation in
27 the county in which the ~~roadway~~ transportation corridor to be
28 designated is located.

29 b. By two week written notice to the Secretary of Transportation,
30 the Chairman of the Board of County Commissioners, and the
31 Mayor of any city or town through whose corporate or
32 extraterritorial jurisdiction the ~~roadway~~ transportation corridor
33 passes.

34 c. By posting copies of the proposed ~~roadway~~ transportation
35 corridor map or amendment at the courthouse door for at least 21
36 days prior to the hearing date. The notice required in sub-
37 subdivision a. above shall make reference to this posting.

38 (2) A permanent certified copy of the ~~roadway~~ transportation corridor
39 official map or amendment has been filed with the register of deeds.
40 The boundaries may be defined by map or by written description, or a
41 combination thereof. The copy shall measure approximately 20 inches
42 by 12 inches, including no less than one and one-half inches binding
43 space on the left-hand side.

- 1 (3) The names of all property owners affected by the corridor have been
2 submitted to the Register of Deeds.
- 3 (b) ~~Roadway~~Transportation corridor official maps and amendments shall be
4 distributed and maintained in the following manner:
- 5 (1) A copy of the official map and each amendment thereto shall be filed in
6 the office of the city clerk and in the office of the district engineer.
- 7 (2) A copy of the official map, each amendment thereto and any variance
8 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the
9 tax supervisor of any county and tax collector of any city affected
10 thereby. The portion of properties embraced within a ~~roadway~~
11 transportation corridor and any variance granted shall be clearly
12 indicated on all tax maps maintained by the county or city for such
13 period as the designation remains in effect.
- 14 (3) Notwithstanding any other provision of law, the certified copy filed with
15 the register of deeds shall be placed in a book maintained for that
16 purpose and cross-indexed by number of road, street name, or other
17 appropriate description. The register of deeds shall collect a fee of five
18 dollars (\$5.00) for each map sheet or page recorded.
- 19 (4) The names submitted as required under subdivision (a)(3) of this section
20 shall be indexed in the 'grantor' index by the Register of Deeds.
- 21 (c) Repealed by Session Laws 1989, c. 595, s. 1.
- 22 (d) Within ~~one year~~two years following the establishment of a ~~roadway~~
23 transportation corridor official map or amendment, work shall begin on an environmental
24 impact statement or preliminary engineering. The failure to begin work on the
25 environmental impact statement or preliminary engineering within the ~~one year~~two-year
26 period shall constitute an abandonment of the corridor, and the provisions of this Article
27 shall no longer apply to properties or portions of properties embraced within the ~~roadway~~
28 transportation corridor. A city may prepare environmental impact studies and
29 preliminary engineering work in connection with the establishment of a ~~roadway~~
30 transportation corridor official map or amendments to a ~~roadway-transportation~~
31 official map. When a city prepares a ~~roadway-transportation~~ corridor official map for a
32 street or highway that has been designated a State responsibility pursuant to G.S. 136-
33 66.2, the environmental impact study and preliminary engineering work shall be
34 reviewed and approved by the Department of Transportation. An amendment to a
35 corridor shall not extend the two-year period provided by this section unless it establishes
36 a substantially different corridor in a primarily new location.
- 37 (e) The term 'amendment' for purposes of this section includes any change to a
38 transportation corridor official map, including:
- 39 (1) Failure of the Department of Transportation, a city, or a regional
40 transportation authority to begin work on an environmental impact
41 statement or preliminary engineering as required by this section; or
42 (2) Deletion of the corridor from the transportation corridor official map by
43 action of the Board of Transportation, or deletion of the corridor from

1 the long-range transportation plan of a city or regional transportation
2 authority by action of the city or regional transportation authority
3 governing Board.

4 **"§ 136-44.51. Effect of roadway-transportation corridor official map.**

5 (a) After a roadway-transportation corridor official map is filed with the register of
6 deeds, no building permit shall be issued for any building or structure or part thereof
7 located within the roadway-transportation corridor, nor shall approval of a subdivision, as
8 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within
9 the roadway-transportation corridor. ~~The district engineer of the Highway District in which~~
10 ~~the roadway corridor is located~~ Secretary of Transportation or his designee shall be notified
11 within 10 days of all requests for building permits or subdivision approval within the
12 roadway-transportation corridor. The provisions of this section shall not apply to valid
13 building permits issued prior to August 7, 1987, or to building permits for buildings and
14 structures which existed prior to the filing of the roadway-transportation corridor provided
15 the size of the building or structure is not increased and the type of building code
16 occupancy as set forth in the North Carolina Building Code is not changed.

17 (b) ~~No~~ In any event, no application for building permit issuance or subdivision plat
18 approval for a tract subject to a valid transportation corridor official map shall be delayed
19 by the provisions of this section for more than three years from the date of its original
20 submittal.

21 **"§ 136-44.52. Variance from roadway-transportation corridor official map.**

22 (a) The Department of ~~Transportation or~~ Transportation, the regional public
23 transportation authority, the regional transportation authority, or the city which initiated
24 the roadway-transportation corridor official map shall establish procedures for considering
25 petitions for variance from the requirements of G.S. 136-44.51.

26 (b) The procedure established by the State shall provide for written notice to the
27 Mayor and Chairman of the Board of County Commissioners of any affected city or
28 county, and for the hearing to be held in the county where the affected property is
29 located.

30 (c) Cities may provide for petitions for variances to be heard by the board of
31 adjustment or other boards or commissions which can hear variances authorized by G.S.
32 160A-388. The procedures for boards of adjustment shall be followed except that no
33 vote greater than a majority shall be required to grant a variance.

34 (d) A variance may be granted upon a showing that:

35 (1) Even with the tax benefits authorized by this Article, no reasonable
36 return may be earned from the land; and

37 (2) The requirements of G.S. 136-44.51 result in practical difficulties or
38 unnecessary hardships.

39 **"§ 136-44.53. Advance acquisition of right-of-way within the roadway**
40 **transportation corridor.**

41 (a) After a roadway-transportation corridor official map is filed with the register of
42 deeds, the Department of ~~Transportation or~~ Transportation, the regional public
43 transportation authority, the regional transportation authority, or then it becomes law

1 a city which initiated the ~~roadway-transportation~~ corridor official map ~~is authorized to~~ may
2 make advanced acquisition of specific parcels of property when ~~such~~ that acquisition is
3 determined by the respective governing board to be in the best public interest to protect
4 the ~~roadway-transportation~~ corridor from development or when the ~~roadway-transportation~~
5 corridor official map creates an undue hardship on the affected property owner.

6 (b) Prior to making any ~~such~~ advanced acquisition of right-of-way under the
7 authority of this Article, the Board of Transportation or the respective ~~municipal~~
8 governing board which initiated the ~~roadway-transportation~~ corridor official map shall
9 develop and adopt appropriate policies and procedures to govern ~~such~~ the advanced
10 acquisition of right-of-way and to assure ~~such~~ that the advanced acquisition is in the best
11 overall public interest.

12 (c) When a city makes an advanced right-of-way acquisition of property within a
13 ~~roadway-transportation~~ corridor official map for a street or highway that has been
14 determined to be a State responsibility pursuant to the provisions of G.S. 136-66.2, the
15 Department of Transportation shall reimburse the city for the cost of ~~such~~ any advanced
16 right-of-way acquisition at the time the street or highway is constructed. The Department
17 of Transportation shall have no responsibility to reimburse a municipality for any
18 advanced right-of-way acquisition for a street or highway that has not been designated a
19 State responsibility pursuant to the provisions of G.S. 136-66.2 prior to the initiation of
20 the advanced acquisition by the city. The city shall obtain the concurrence of the
21 Department of Transportation in all instances of advanced acquisition.

22 (d) In exercising the authority granted by this section, a municipality is authorized
23 to expend municipal funds for the protection of rights-of-way shown on a duly adopted
24 ~~roadway-transportation~~ corridor official map whether the right-of-way to be acquired is
25 located inside or outside the municipal corporate limits."

26 **"§ 136-44.54. Standard for appraisal of right-of-way within corridor.**

27 The Department shall utilize the criteria contained in 49 C.F.R. § 24.103 (1997)
28 when appraising right-of-way in a transportation corridor designated under this
29 Article."

30 Section 2. G.S. 105-277.9 reads as rewritten:

31 **"§ 105-277.9. Taxation of property inside certain roadway corridors.**

32 Real property that lies within a ~~roadway-transportation~~ corridor marked on an official
33 map filed under Article 2E of Chapter 136 of the General Statutes is designated a special
34 class of property under Article V, Sec. 2(2) of the North Carolina Constitution and is
35 taxable at twenty percent (20%) of the general tax rate levied on real property by the
36 taxing unit in which the property is situated if:

- 37 (1) As of January 1, no building or other structure is located on the
38 property; and
39 (2) The property has not been subdivided, as defined in G.S. 153A-335 or
40 G.S. 160A-376, since it was included in the corridor."

41 Section 3. G.S. 136-102.6(j) reads as rewritten:

42 "(j) The Division of Highways and district engineers of the Division of Highways
43 of the Department of Transportation shall issue a certificate of approval for any

1 subdivision affected by a ~~roadway~~transportation corridor official map established by the
2 Board of Transportation only if the subdivision conforms to Article 2E of this Chapter or
3 conforms to any variance issued in accordance with that Article."

4 Section 4. G.S. 160A-458.4 reads as rewritten:

5 "**§ 160A-458.4. Designation of ~~roadway~~transportation corridor official maps.**

6 Any city may establish ~~roadway~~transportation corridor official maps and may enact
7 and enforce ordinances pursuant to Article 2E of Chapter 136 of the General Statutes."

8 Section 5. This act becomes effective October 1, 1998, and applies to
9 transportation corridor official maps, or amendments to those maps, adopted on or after
10 the effective date of this act.