

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1304

Short Title: Restructure DOT Board.

(Public)

Sponsors: Representatives Bowie, Buchanan, Church, Dockham, Hill, Sexton (Cosponsors); Adams, Aldridge, Allen, Berry, Brown, Creech, Culp, Davis, Eddins, Esposito, Gardner, McAllister, Morris, Preston, Rayfield, Russell, Shubert, and Watson.

Referred to: Transportation.

May 18, 1998

A BILL TO BE ENTITLED  
AN ACT TO RESTRUCTURE THE BOARD OF TRANSPORTATION.  
The General Assembly of North Carolina enacts:

Section 1. Part 2 of Article 8 of Chapter 143B of the General Statutes reads as rewritten:

**"PART 2. BOARD OF ~~TRANSPORTATION~~—~~SECONDARY~~  
~~ROADS COUNCIL.~~ TRANSPORTATION.**

**"§ 143B-350. Board of Transportation – organization; powers and duties, etc.**

(a) There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole and it shall not sacrifice the general statewide interest to the purely local desires of any particular area. The Board may, from time to time, provide that one or more of its members or representatives shall hear any person or persons concerning transportation.

~~(b) The Board of Transportation shall have two ex officio members. The Secretary of Transportation shall be an ex officio member of the Board of Transportation and shall be the chairman of the Board of Transportation. The chairman of the North Carolina Rail Council shall be an ex officio member of the Board of Transportation.~~

1       ~~(e) The Board of Transportation shall have 20 members appointed by the~~  
2 ~~Governor. One member shall be appointed from each of the 14 transportation engineering~~  
3 ~~divisions and six members shall be appointed from the State at large. One at large~~  
4 ~~member shall be a registered voter of a political party other than the political party of the~~  
5 ~~Governor. At least one at-large member shall possess a broad knowledge of public~~  
6 ~~transportation matters. No more than two members provided for in this subsection shall~~  
7 ~~reside in the same engineering division while serving in office. The initial members shall~~  
8 ~~serve terms beginning July 1, 1977, and ending January 14, 1981, or until their successors~~  
9 ~~are appointed and qualified. The succeeding terms of office shall be for a period of four~~  
10 ~~years beginning January 15, 1981, and each four years thereafter. The Governor shall~~  
11 ~~have the authority to remove for cause sufficient to himself, any member appointed by~~  
12 ~~the Governor.~~

13       ~~(d) The Board of Transportation shall have four members appointed by the~~  
14 ~~General Assembly. Two of these members shall be appointed upon the recommendation~~  
15 ~~of the Speaker of the House of Representatives, and two shall be appointed upon the~~  
16 ~~recommendation of the President Pro Tempore of the Senate in accordance with G.S.~~  
17 ~~120-121. The initial members appointed by the General Assembly shall serve for terms~~  
18 ~~expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms~~  
19 ~~beginning July 1 of odd-numbered years. Vacancies in appointments made by the~~  
20 ~~General Assembly shall be filled in accordance with G.S. 120-122.~~

21       **(b) Composition of the Board. –**

22           **(1) Number: appointment; confirmation. – The Board of Transportation**  
23 **shall have 19 members appointed by the Governor, subject to**  
24 **confirmation by a majority vote of each house of the General Assembly.**

25           **(2) District members. – One member shall be appointed from each of the 14**  
26 **highway districts. Each District member shall be a resident of the**  
27 **district he or she is appointed to represent.**

28           **(3) At-large members; qualifications. – Five members shall be appointed**  
29 **from the State at large. No more than two at-large members shall reside**  
30 **in the same highway district. The at-large members shall possess the**  
31 **following qualifications:**

32           **a. One at-large member shall be a professional engineer;**

33           **b. One at-large member shall be a land-use planner;**

34           **c. One at-large member shall be a scientist familiar with**  
35 **environmental issues affecting water, air, and soil;**

36           **d. One at-large member shall have experience as a public**  
37 **transportation professional or experience in and knowledge of the**  
38 **railroad industry; and,**

39           **f. One at-large member shall be a certified public accountant with**  
40 **background in governmental accounting.**

41           **(4) Partisan representation: – Six members of the Board shall be registered**  
42 **voters of a political party other than the political party of the Governor.**

1       (c) Staggered Terms. – The terms of all members serving on the Board prior to  
2 January 15, 1999, shall expire on that date. The terms of seven of the district members  
3 and three of the at-large members specified in this section shall initially be for two years  
4 beginning January 15, 1999, and for four years thereafter. The terms of the other seven  
5 of the district members, and the other two of the at-large members specified in this  
6 section shall be for four years beginning January 15, 1999.

7       (d) Holdover Term. – Members shall continue to serve until their successors are  
8 nominated and confirmed.

9       (e) Vacancies. – The Governor may fill a vacancy on the Board by appointing an  
10 interim member of the Board to complete the unexpired term of a member. If the interim  
11 appointment is made at a time when the General Assembly is not in regular session, the  
12 appointment must be confirmed by the General Assembly within 30 calendar days of the  
13 convening of the next regular session, or the term of the interim member shall expire on  
14 that date. If the interim appointment is made when the General Assembly is in regular  
15 session, the appointment must be confirmed prior to the adjournment of the regular  
16 session, or the term of the interim member shall expire upon adjournment.

17       (e1) Removal. – The Governor may remove any member of the Board for any cause  
18 the Governor finds sufficient.

19       (e2) Organization and Meetings of the Board. – Within 60 days after January 15,  
20 1999, and thereafter within 60 days following the beginning of the regular term of the  
21 Governor, the Governor or his designee shall call the Board into session. The Board shall  
22 then select a chair and vice-chair from among its membership. The Board of  
23 Transportation shall meet once in each 60 days at such regular meeting times as the  
24 Board may by rule provide and at any place in the State as the Board may provide. The  
25 Board may hold special meetings at any time at the call of the chairman or any three  
26 members. The Board shall have the power to adopt and enforce rules and regulations for  
27 the government of its business and proceedings. The Board shall keep minutes of its  
28 meetings, which shall at all times be open to public inspection. The majority of the Board  
29 shall constitute a quorum for the transaction of business. Board members shall receive per  
30 diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and  
31 G.S. 138-6, as appropriate.

32       (f) The Board of Transportation shall have duties and powers:

33       (1) To formulate policies and priorities for all modes of transportation  
34       under the Department of Transportation;

35       (2) To advise the Secretary on matters to achieve the maximum public  
36       benefit in the performance of the functions assigned to the Department;

37       (3) To ascertain the transportation needs and the alternative means to  
38       provide for these needs through an integrated system of transportation  
39       taking into consideration the social, economic and environmental  
40       impacts of the various alternatives.

41       (4) To approve a schedule of all major transportation improvement projects  
42       and their anticipated cost for a period of seven years into the future.  
43       This schedule is designated the Transportation Improvement Program; it

1 must be published and copies must be available for distribution. The  
2 document that contains the Transportation Improvement Program, or a  
3 separate document that is published at the same time as the  
4 Transportation Improvement Program, must include the anticipated  
5 funding sources for the improvement projects included in the Program, a  
6 list of any changes made from the previous year's Program, and the  
7 reasons for the changes;

8 (5) To consider and advise the Secretary of Transportation upon any other  
9 transportation matter that the Secretary may refer to it;

10 (6) To assist the Secretary of Transportation in the performance of his  
11 duties in the development of programs and approve priorities for  
12 programs within the Department;

13 (7) To allocate all highway construction and maintenance funds  
14 appropriated by the General Assembly as well as federal-aid funds  
15 which may be available;

16 (8) To approve all highway construction programs;

17 (9) To approve all highway construction projects and construction plans for  
18 the construction of projects;

19 (10) To review all statewide maintenance functions;

20 (11) To award all highway construction contracts;

21 (12) To authorize the acquisition of rights-of-way for highway improvement  
22 projects, including the authorization for acquisition of property by  
23 eminent domain;

24 (13) To promulgate rules, regulations, and ordinances concerning all  
25 transportation functions assigned to the Department.

26 (14) To hire a career transportation professional, after a nationwide search, to  
27 serve as Secretary of Transportation. The Board shall retain the  
28 Secretary, subject to a renewable employment contract for a period of  
29 four years or until the next general election for Governor, whichever  
30 occurs first. The Board may employ an interim Secretary for a period of  
31 up to six months during the pendency of its search for a permanent  
32 Secretary.

33 (15) To hire a Transportation Board staff executive director and appropriate  
34 additional staff to advise the Board on planning, engineering,  
35 construction, and legal matters.

36 (f1) The ability of a municipality to pay in part or whole for any transportation  
37 improvement project shall not be a factor considered by the Board of Transportation in its  
38 development and approval of a schedule of major State highway system improvement  
39 projects to be undertaken by the Department under G.S. 143B-350(f)(4).

40 (g) The Board of Transportation may, in its discretion, delegate to the Secretary of  
41 Transportation the authority:

42 (1) To approve all highway construction projects and construction plans for  
43 the construction of projects;

1 (2) To award all highway construction contracts;

2 (3) To promulgate rules, regulations, and ordinances concerning all  
3 transportation functions assigned to the Department.

4 The Secretary may, in turn, subdelegate these duties and powers.

5 (h) Each member of the Board of Transportation who is appointed to represent a  
6 transportation engineering division or who resides in a division shall be consulted before  
7 the Board makes a decision affecting that division.

8 (i) Limitations on Political Contributions; Disclosure. –

9 (1) Board members. – No person shall be eligible for appointment to the  
10 Board of Transportation if the nominee, or any of the nominee's  
11 immediate family members, made a contribution to the political  
12 campaign of the appointing Governor in the two years preceding the  
13 date of nomination. Any person nominated for a seat on the Board of  
14 Transportation shall publicly disclose in writing under oath all real  
15 estate holdings and any transportation related business interests prior to  
16 confirmation and appointment to the Board. Disclosure forms shall be  
17 filed with the Board of Ethics. Board nominees and members of the  
18 Board of Transportation are prohibited from making any contribution to  
19 the political campaign of the Governor, any candidate for Governor, any  
20 member of the General Assembly, or any candidate for the General  
21 Assembly, during the pendency of their nomination, and during the time  
22 they serve on the Board.

23 (2) Secretary of Transportation. – No person shall be eligible for  
24 employment as Secretary of Transportation if the person or an  
25 immediate family member of the person made a contribution to the  
26 political campaign of the Governor in the two years preceding the  
27 person's employment as Secretary. The Secretary of Transportation  
28 shall publicly disclose in writing under oath all real estate holdings and  
29 any transportation related business interests prior to beginning his or her  
30 employment as Secretary. Disclosure forms shall be filed with the Board  
31 of Ethics. The Secretary of Transportation is prohibited from making a  
32 political contribution to the political campaigns of the Governor, any  
33 candidate for Governor, any member of the General Assembly, or any  
34 candidate for the General Assembly, while serving as Secretary.

35 (j) Board Ethics Policy. – The Board shall adopt a comprehensive ethics policy  
36 governing actions by Board members. The Board Chair shall ensure that Board members  
37 receive training on the ethics policy and related State laws and policies at least once a  
38 year."

39 Section 2. G.S. 143B-9 reads as rewritten:

40 "143B-9. Appointment of officers and employees.

41 The head of each principal State department, except those departments headed by  
42 popularly elected officers, and except the Secretary of Transportation, as provided in G.S.  
43 143B-350, shall be appointed by the Governor and serve at his pleasure.

1       The salary of the head of each of the principal State departments and of elected  
2 officials shall be as provided by law.

3       The head of a principal State department shall appoint a chief deputy or chief  
4 assistant, and such chief deputy or chief assistant shall not be subject to the State  
5 Personnel Act. The salary of such chief deputy or chief assistant shall, upon the  
6 recommendation of the Governor, be set by the General Assembly. Unless otherwise  
7 provided for in the Executive Organization Act of 1973, and subject to the provisions of  
8 the Personnel Act, the head of each principal State department shall designate the  
9 administrative head of each transferred agency and all employees of each division,  
10 section, or other unit of the principal State department."

11       Section 3. There is appropriated from the Highway Fund to the Department of  
12 Transportation the sum of one million five hundred thousand dollars (\$1,500,000) for the  
13 fiscal year 1998-99 for use by the Board of Transportation to hire appropriate staff to  
14 carry out the provisions of this act.

15       Section 4. This act becomes effective July 1, 1998.