

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
Transportation Committee Substitute #3 Adopted 7/16/98
Finance Committee Substitute #4 Adopted 7/22/98
Sixth Edition Engrossed 7/23/98
Seventh Edition Engrossed 8/6/98

Short Title: Transportation Corridors.

(Public)

Sponsors:

Referred to:

May 27, 1998

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

The General Assembly of North Carolina enacts:

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

"ARTICLE 2E.

"ROADWAY TRANSPORTATION CORRIDOR OFFICIAL MAP ACT.

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

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

- 1 (1) ~~by the~~ The governing board of any city for any thoroughfare included as
2 part of a comprehensive plan for streets and highways adopted pursuant
3 to G.S. 136-66.2 or G.S. 136-66.2 or for any proposed public
4 transportation corridor included in the adopted long-range transportation
5 plan.
- 6 (2) ~~by the~~ The Board of Transportation for any portion of the existing or
7 proposed State highway system or for any public transportation
8 corridor, to include rail, that is in the Transportation Improvement
9 Program.
- 10 (3) Regional public transportation authorities created pursuant to Article 26
11 of Chapter 160A of the General Statutes or regional transportation
12 authorities created pursuant to Article 27 of Chapter 160A of the
13 General Statutes for any proposed public transportation corridor, or
14 adjacent station or parking lot, included in the adopted long-range
15 transportation plan.

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

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

- 24 (1) The governing board of the city-city, the regional transportation
25 authority, or the Department of Transportation in each county affected by
26 the map, has held a public hearing in each county affected by the map
27 on the proposed map or amendment. Notice of the hearing shall be
28 provided:
- 29 a. By publication at least once a week for four successive weeks
30 prior to the hearing in a newspaper having general circulation in
31 the county in which the roadway-transportation corridor to be
32 designated is located.
- 33 b. By two week written notice to the Secretary of Transportation,
34 the Chairman of the Board of County Commissioners, and the
35 Mayor of any city or town through whose corporate or
36 extraterritorial jurisdiction the roadway-transportation corridor
37 passes.
- 38 c. By posting copies of the proposed roadway-transportation
39 corridor map or amendment at the courthouse door for at least 21
40 days prior to the hearing date. The notice required in sub-
41 subdivision a. above shall make reference to this posting.
- 42 (2) A permanent certified copy of the roadway-transportation corridor
43 official map or amendment has been filed with the register of deeds.

1 The boundaries may be defined by map or by written description, or a
2 combination thereof. The copy shall measure approximately 20 inches
3 by 12 inches, including no less than one and one-half inches binding
4 space on the left-hand side.

5 (3) The names of all property owners affected by the corridor have been
6 submitted to the Register of Deeds.

7 (b) ~~Roadway~~Transportation corridor official maps and amendments shall be
8 distributed and maintained in the following manner:

9 (1) A copy of the official map and each amendment thereto shall be filed in
10 the office of the city clerk and in the office of the district engineer.

11 (2) A copy of the official map, each amendment thereto and any variance
12 therefrom granted pursuant to G.S. 136-44.52 shall be furnished to the
13 tax supervisor of any county and tax collector of any city affected
14 thereby. The portion of properties embraced within a ~~roadway~~
15 transportation corridor and any variance granted shall be clearly
16 indicated on all tax maps maintained by the county or city for such
17 period as the designation remains in effect.

18 (3) Notwithstanding any other provision of law, the certified copy filed with
19 the register of deeds shall be placed in a book maintained for that
20 purpose and cross-indexed by number of road, street name, or other
21 appropriate description. The register of deeds shall collect a fee of five
22 dollars (\$5.00) for each map sheet or page recorded.

23 (4) The names submitted as required under subdivision (a)(3) of this section
24 shall be indexed in the 'grantor' index by the Register of Deeds.

25 (c) Repealed by Session Laws 1989, c. 595, s. 1.

26 (d) Within ~~one year~~two years following the establishment of a ~~roadway~~
27 transportation corridor official map or amendment, work shall begin on an environmental
28 impact statement or preliminary engineering. The failure to begin work on the
29 environmental impact statement or preliminary engineering within the ~~one year~~two-year
30 period shall constitute an abandonment of the corridor, and the provisions of this Article
31 shall no longer apply to properties or portions of properties embraced within the ~~roadway~~
32 transportation corridor. A city may prepare environmental impact studies and
33 preliminary engineering work in connection with the establishment of a ~~roadway~~
34 transportation corridor official map or amendments to a ~~roadway-transportation~~
35 official map. When a city prepares a ~~roadway-transportation~~ corridor official map for a
36 street or highway that has been designated a State responsibility pursuant to G.S. 136-
37 66.2, the environmental impact study and preliminary engineering work shall be
38 reviewed and approved by the Department of Transportation. An amendment to a
39 corridor shall not extend the two-year period provided by this section unless it establishes
40 a substantially different corridor in a primarily new location.

41 (e) The term 'amendment' for purposes of this section includes any change to a
42 transportation corridor official map, including:

- 1 (1) Failure of the Department of Transportation, a city, or a regional
2 transportation authority to begin work on an environmental impact
3 statement or preliminary engineering as required by this section; or
4 (2) Deletion of the corridor from the transportation corridor official map by
5 action of the Board of Transportation, or deletion of the corridor from
6 the long-range transportation plan of a city or regional transportation
7 authority by action of the city or regional transportation authority
8 governing Board.

9 **"§ 136-44.51. Effect of ~~roadway~~-transportation corridor official map.**

10 (a) After a ~~roadway~~-transportation corridor official map is filed with the register of
11 deeds, no building permit shall be issued for any building or structure or part thereof
12 located within the ~~roadway~~-transportation corridor, nor shall approval of a subdivision, as
13 defined in G.S. 153A-335 and G.S. 160A-376, be granted with respect to property within
14 the ~~roadway~~-transportation corridor. ~~The district engineer of the Highway District in which~~
15 ~~the roadway corridor is located~~ Secretary of Transportation or his designee, the director of a
16 regional public transportation authority, or the director of a regional transportation
17 authority, as appropriate, shall be notified within 10 days of all requests for building
18 permits or subdivision approval within the ~~roadway~~-transportation corridor. The
19 provisions of this section shall not apply to valid building permits issued prior to August
20 7, 1987, or to building permits for buildings and structures which existed prior to the
21 filing of the ~~roadway~~-transportation corridor provided the size of the building or structure
22 is not increased and the type of building code occupancy as set forth in the North
23 Carolina Building Code is not changed.

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

28 **"§ 136-44.52. Variance from ~~roadway~~-transportation corridor official map.**

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

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

37 (c) Cities may provide for petitions for variances to be heard by the board of
38 adjustment or other boards or commissions which can hear variances authorized by G.S.
39 160A-388. The procedures for boards of adjustment shall be followed except that no
40 vote greater than a majority shall be required to grant a variance.

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

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

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

3 **"§ 136-44.53. Advance acquisition of right-of-way within the roadway**
4 **transportation corridor.**

5 (a) After a ~~roadway~~ transportation corridor official map is filed with the register of
6 deeds, the Department of ~~Transportation or~~ Transportation, the regional public
7 transportation authority, the regional transportation authority, or the city which initiated
8 the ~~roadway~~ transportation corridor official map is ~~authorized to~~ may make advanced
9 acquisition of specific parcels of property when ~~such that~~ acquisition is determined by the
10 respective governing board to be in the best public interest to protect the ~~roadway~~
11 transportation corridor from development or when the ~~roadway~~ transportation corridor
12 official map creates an undue hardship on the affected property owner.

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

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

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

33 **"§ 136-44.54. Standard for appraisal of right-of-way within corridor.**

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

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

38 **"§ 105-277.9. Taxation of property inside certain roadway corridors.**

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

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

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

6 "(j) The Division of Highways and district engineers of the Division of Highways
7 of the Department of Transportation shall issue a certificate of approval for any
8 subdivision affected by a ~~roadway-transportation~~ transportation corridor official map established by the
9 Board of Transportation only if the subdivision conforms to Article 2E of this Chapter or
10 conforms to any variance issued in accordance with that Article."

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

12 "**§ 160A-458.4. Designation of ~~roadway-transportation~~ transportation corridor official maps.**

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

15 Section 5. G.S. 161-14 is amended by adding a new subsection to read:

16 "(c) Transportation corridor official maps authorized under Article 2E of Chapter
17 136 shall be registered and indexed by the end of the third business day after the business
18 day the map is presented to the Register of Deeds."

19 Section 6. This act becomes effective October 1, 1998, and applies to
20 transportation corridor official maps, or amendments to those maps, adopted on or after
21 the effective date of this act.