

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE DRS75165-MA-257 (2/27)

Short Title: Ferry Division Changed to Marine Division.

(Public)

Sponsors: Senator Jenkins.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE NAME OF THE FERRY DIVISION OF THE DEPARTMENT OF TRANSPORTATION TO THE MARINE DIVISION AND TO DEFINE THE MARINE DIVISION'S RESPONSIBILITIES.

The General Assembly of North Carolina enacts:

**SECTION 1.** The Ferry Division of the Department of Transportation shall be renamed the Marine Division. In addition to any other responsibilities of the Division, it may participate in maintaining all navigable waterways and excesses in this State.

**SECTION 2.** G.S. 136-16.10 reads as rewritten:

"§ 136-16.10. **Allocations by Department Controller to eliminate overdrafts.**

The Controller of the Department of Transportation shall allocate at the beginning of each fiscal year from the various appropriations made to the Department of Transportation for State Construction, State Funds to Match Federal Highway Aid, State Maintenance, and ~~Ferry~~ Marine Operations, sufficient funds to eliminate all overdrafts on State maintenance and construction projects, and these allocations shall not be diverted to other purposes."

**SECTION 3.** G.S. 136-28.1(c) reads as rewritten:

"(c) The construction, maintenance, and repair of Marine Division ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Chapter 143C of the General Statutes, the State Budget Act. In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived."

**SECTION 4.** G.S. 136-44.2 reads as rewritten:

"§ 136-44.2. **Budget and appropriations.**

The Director of the Budget shall include in the "Current Operations Appropriations Bill" an enumeration of the purposes or objects of the proposed expenditures for each of the construction and maintenance programs for that budget period for the State primary, secondary, and State parks road systems. The State primary system shall include all portions of the State highway system located both inside and outside municipal corporate limits that are designated by N.C., U.S. or Interstate numbers. The State secondary system shall include all of the State highway system located both inside and outside municipal corporate limits that is not a part of the State primary system. The State parks system shall include all State parks roads and parking lots that are not also part of the State highway system.



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1 All construction and maintenance programs for which appropriations are requested shall be  
2 enumerated separately in the budget. Programs that are entirely State funded shall be listed  
3 separately from those programs involving the use of federal-aid funds. Proposed appropriations  
4 of State matching funds for each of the federal-aid construction programs shall be enumerated  
5 separately as well as the federal-aid funds anticipated for each program in order that the total  
6 construction requirements for each program may be provided for in the budget. Also, proposed  
7 State matching funds for the highway planning and research program shall be included  
8 separately along with the anticipated federal-aid funds for that purpose.

9 Other program categories for which appropriations are requested, such as, but not limited  
10 to, maintenance, channelization and traffic control, bridge maintenance, public service and  
11 access road construction, and ~~ferry~~ Marine Division operations shall be enumerated in the  
12 budget.

13 The Department of Transportation shall have all powers necessary to comply fully with  
14 provisions of present and future federal-aid acts. No federally eligible construction project may  
15 be funded entirely with State funds unless the Department of Transportation has first reported  
16 to the Joint Legislative Commission on Governmental Operations. For purposes of this section,  
17 "federally eligible construction project" means any construction project except secondary road  
18 projects developed pursuant to G.S. 136-44.7 and 136-44.8 eligible for federal funds under any  
19 federal-aid act, whether or not federal funds are actually available.

20 The "Current Operations Appropriations Bill" shall also contain the proposed  
21 appropriations of State funds for use in each county for maintenance and construction of  
22 secondary roads, to be allocated in accordance with G.S. 136-44.5 and 136-44.6. State funds  
23 appropriated for secondary roads shall not be transferred nor used except for the construction  
24 and maintenance of secondary roads in the county for which they are allocated pursuant to  
25 G.S. 136-44.5 and 136-44.6.

26 If the unreserved credit balance in the Highway Fund on the last day of a fiscal year is  
27 greater than the amount estimated for that date in the Current Operations Appropriations Act  
28 for the following fiscal year, the excess shall be used in accordance with this paragraph. The  
29 Director of the Budget may allocate part or all of the excess among reserves for access and  
30 public roads, for unforeseen events requiring prompt action, or for other urgent needs. The  
31 amount not allocated to any of these reserves by the Director of the Budget shall be credited to  
32 a reserve for maintenance. The Board of Transportation shall report monthly to the Joint  
33 Legislative Transportation Oversight Committee and the Fiscal Research Division on the use of  
34 funds in the maintenance reserve.

35 The Department of Transportation may provide for costs incurred or accrued for traffic  
36 control measures to be taken by the Department at major events which involve a high degree of  
37 traffic concentration on State highways, and which cannot be funded from regular budgeted  
38 items. This authorization applies only to events which are expected to generate 30,000 vehicles  
39 or more per day. The Department of Transportation shall provide for this funding by allocating  
40 and reserving up to one hundred thousand dollars (\$100,000) before any other allocations from  
41 the appropriations for State maintenance for primary, secondary, and urban road systems are  
42 made, based upon the same proportion as is appropriated to each system."

43 **SECTION 5.(a)** The title of Article 6 of Chapter 136 of the General Statutes reads  
44 as rewritten:

45 "Article 6.

46 Marine Division, Ferries, etc., and Toll Bridges."

47 **SECTION 5.(b)** G.S. 136-82 reads as rewritten:

48 "**§ 136-82. Department of Transportation to establish and maintain ferries.**the Marine  
49 Division.

50 The Department of Transportation is vested with authority to provide for the establishment  
51 and maintenance of a Marine Division to oversee ferries connecting the parts of the State

1 highway system, whenever in its discretion the public good may so require, and to prescribe  
2 and collect such tolls therefor as may, in the discretion of the Department of Transportation, be  
3 expedient.

4 To accomplish the purpose of this section said Department of Transportation is authorized  
5 to acquire, own, lease, charter or otherwise control all necessary vessels, boats, terminals or  
6 other facilities required for the proper operation of such ferries or to enter into contracts with  
7 persons, firms or corporations for the operation thereof and to pay therefor such reasonable  
8 sums as may in the opinion of said Department of Transportation represent the fair value of the  
9 public service rendered. In addition to the operation of vessels, boats, terminals, or other  
10 facilities, the Marine Division may participate in maintaining all navigable waterways and  
11 excesses within this state.

12 The Department of Transportation, notwithstanding any other provision of law, may  
13 operate, or contract for the operation of, concessions on the ferries and at ferry facilities to  
14 provide to passengers on the ferries food, drink, and other refreshments, personal comfort  
15 items, and souvenirs publicizing the ferry system."

16 **SECTION 6.** G.S. 136-89 reads as rewritten:

17 "**§ 136-89. Safety measures; guard chains or gates.**

18 Each and every person, firm or corporation, owning or operating a public ferry upon any  
19 sound, bay, river, creek or other stream, shall have securely affixed and attached thereto, at  
20 each end of the same, a detachable steel or iron chain, or in lieu thereof a steel or iron gate, and  
21 so affixed and arranged that the same shall be closed or fastened across the opposite end from  
22 the approach, whenever any motor vehicle, buggy, cart, wagon, or other conveyance shall be  
23 driven upon or shall enter upon the same; and shall be securely fastened or closed at each end  
24 of the ferry after such motor vehicle, buggy, cart, wagon, or other conveyance shall have been  
25 driven or shall have entered upon the same. And the said gates or chains shall remain closed or  
26 fastened, at each end, until the voyage across the stream upon which said ferry is operated shall  
27 have been completed. The Marine Division of the Department of Transportation, as to ferries  
28 under its supervision, and the respective boards of county commissioners, as to other ferries,  
29 shall fix and determine a standard weight or size of chain, and a standard size, type, or  
30 character of gate, for use by said ferries, leaving optional with the said owner or operator the  
31 use of chains or gates.

32 Any person, firm or corporation violating any of the provisions of this section shall be  
33 guilty of a Class 1 misdemeanor."

34 **SECTION 7.** G.S. 143B-350(f2) reads as rewritten:

35 "(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an  
36 aircraft from the Equipment Fund or a Marine Division ferry in a Transportation Improvement  
37 Program, the Board of Transportation shall prepare an estimate of the operational costs and  
38 capital costs associated with the addition of the aircraft or ferry and shall report those additional  
39 costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative  
40 Commission on Governmental Operations."

41 **SECTION 8.** This act is effective when it becomes law.